

## CHAPTER IV

### EVALUATION OF THE SITUATION OF FREEDOM OF EXPRESSION IN THE HEMISPHERE

#### A. Introduction

1. This chapter contains an analysis and overview of the status of freedom of expression in countries in the hemisphere. It indicates the principal problems which exist as well as the progress made in the year 2000. It also includes a discussion of countries meriting special attention by the Special Rapporteur due to the situation of freedom of expression. This chapter presents all information received by the Office of the Special Rapporteur regarding violations of this right in different OAS Member States. Additionally, it contains a list of the journalists murdered during the year 2000.

#### B. Evaluation

2. Freedom of expression continues to be seriously threatened in many States in the hemisphere. The murder of journalists; the failure to punish those responsible for these murders; threats, attacks and intimidation directed against journalists and the mass media; laws contravening the American Convention on Human Rights and other international instruments; and the use of the judiciary as an instrument for intimidating and harassing journalists are the main reasons that the exercise of the right to freedom of expression is imperiled in the hemisphere.

3. The murder of journalists is the most brutal form of curtailing freedom of expression. Based on the information received, seven journalists in different countries in the region were assassinated during 2000 because of their journalistic activities. This figure is higher than that registered for 1999, when the murders of six journalists were reported.<sup>96</sup> In

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<sup>96</sup> IACHR, Annual Report 1999, Report of the Office of the Special Rapporteur for Freedom of Expression, April 13, 2000, p.48.

1998, the number of journalists murdered was eighteen.<sup>97</sup> In the two years and four months that the Office of the Special Rapporteur has been working, 31 cases of murders of journalists have been recorded. The seriousness of these assassinations increases alarmingly when investigations to punish the perpetrators of these crimes fail to produce positive results. With regard to these murders, it is important to recall Principle 9 of the Declaration of Principles on Freedom of Expression, which stipulates:

The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.

4. Because freedom of expression plays a fundamental role in the functioning of democratic systems, States must work harder to fulfill their obligation to investigate, prosecute and punish the perpetrators of these murders. The Commission has stated that the failure to seriously investigate, prosecute and punish the material and intellectual authors of these crimes against journalists constitutes a violation not only of due process guarantees and other rights, but also of the right to disseminate information and to express oneself freely and publicly, thereby triggering the international liability of the State.<sup>98</sup>

5. This report includes a special section on the assassinations of journalists that occurred in the year 2000. The circumstances surrounding these assassinations and the related investigations are analyzed in this section. The Special Rapporteur received information about other cases of murders of journalists, which are currently being investigated to determine if these murders were consequences of the victims' journalistic activities.

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<sup>97</sup> IACHR, Annual Report 1998. Report of the Office of the Special Rapporteur for Freedom of Expression, April 16, 1999, p.50.

<sup>98</sup> IACHR, Report N° 50/99, Case 11.739 (Mexico), April 13, 1999. Additionally, the Inter-American Court of Human Rights stated: "The State is obliged to investigate every situation involving a violation of the rights protected by the Convention. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to the persons within its jurisdiction. The same is true when the State allows private persons or groups to act freely or with impunity to the detriment of the rights recognized by the Convention."

6. According to the information received on an ongoing basis by the Office of the Special Rapporteur, it is evident that the most common methods of curtailing freedom of expression are physical and psychological threats, harassment, intimidation and the use of domestic legislation to file suit against the press and other social communicators. One section of this chapter presents the information received throughout the year 2000.

7. With regard to the domestic legislation of countries in the hemisphere, the Special Rapporteur notes with concern that some States have failed to demonstrate sufficient political will to undertake significant reforms in the area of freedom of expression. To the contrary, *desacato* (contempt) laws continue to be used to stifle the press and, in countries where there are no such laws, other legal definitions such as defamation and libel are used to stifle the press. Actions of this nature violate Article 13 of the Convention and contravene Principles 10 and 11 of the Declaration of Principles on Freedom of Expression. Prior censorship, moreover, continues to be applied in many States, even though such actions seriously imperil the right of every person to choose the information that he or she wishes to receive. This violation figures in various international treaties, in the American Convention and, more recently, in Principle 5 of the Declaration. Further, many Member States continue to violate the freedom of expression of their citizens by requiring licenses and compulsory membership in associations as conditions for journalists to practice in their field. Such measures contravene the provisions of Principle 6 of the Declaration.

8. In the Special Rapporteur's judgment, the strengthening of freedom of expression in the hemisphere necessitates more concerted action by States that reflects a serious commitment to observance of this right. Significant changes have not been observed in most States and for this reason, the Special Rapporteur stresses once again that stronger steps must be taken in favor of freedom of expression and that the domestic legislation of OAS member States must be made compatible with international standards on freedom of expression.

9. In the area of domestic legislation, Guatemala, Peru and Argentina are developing measures directed at offering their citizens full guarantees of the right to freedom of expression. With the collaboration of the Office of the Special Rapporteur, Guatemala has

prepared draft legislation regulating the right to access to information. As this report was being published, the Office of the Special Rapporteur received information that this bill had been introduced in Congress. For its part, Argentina introduced a bill to decriminalize the offense of libel and slander, which is currently under debate in the Parliament. This bill was the product of a friendly settlement in a case before the Commission.

10. With respect to Peru, in February of 2001, the Human Rights Ombudsman introduced a bill before Congress to repeal Article 374 of the Penal Code, which defines the crime of *desacato*. This bill is currently under the consideration of the Peruvian Congress. The Special Rapporteur urges the authorities to work for the approval of this bill during the next Congressional sessions. In the case of the Argentine bill, the Special Rapporteur urges the Argentine authorities to expedite the legislative procedures that might lead to the adoption of the decriminalization bill.

11. The Special Rapporteur expresses his strong interest that these bills be adopted in the near future. The adoption of these bills would constitute a significant step forward for freedom of expression in those countries, as well as an example that should be followed by other member States.

12. The restoration of the democratic system in Peru, with the attendant improvement in freedom of expression, represents the most significant progress in the area of freedom of expression in the year 2000. On many occasions, the Office of the Special Rapporteur has remarked on the deplorable state of freedom of expression in that country. Through judicial persecution, threats, torture, etc., the regime headed by former president Alberto Fujimori and former intelligence agent Vladimiro Montesinos carried out a campaign of persecution, intimidation and harassment against all those attempting to freely exercise their right to freedom of expression. Clearly, the return to the path of democracy has restored to Peruvian citizens the free exercise of the right to freedom of expression. This is particularly significant for the current Peruvian electoral process. The Office of the Special Rapporteur has had the opportunity to comment on the importance of freedom of expression, especially during electoral processes.

The importance of respect for freedom of expression and information becomes extremely critical in times when citizens need information to elect the individuals who will be responsible for governing them. The State must guarantee, without discrimination, the enjoyment of the rights to transmit and receive information in accordance with respect for the political rights of all citizens to participate in the electoral process, either as candidates or as voters.<sup>99</sup>

13. Cuba continues to be of primary concern for the Office of the Special Rapporteur as the most critical situation for freedom of expression in the Hemisphere. The absence of a pluralistic democracy translates in practice as a systematic violation of freedom of expression. Compounding this lack of democracy is the government practice of persecuting, intimidating and harassing numerous independent journalists in Cuba.

14. Regarding the above, The Inter-American Court of Human Rights has stated that “[f]reedom of expression is a cornerstone upon which the very existence of a democratic society rests. It is indispensable for the formation of public opinion. It is also a *conditio sine qua non* for the development of political parties, trade unions, scientific and cultural societies and, in general, those who wish to influence the public. It represents, in short, the means that enable the community, when exercising its options, to be sufficiently informed. Consequently, it can be said that a society that is not well informed is not a society that is truly free.”<sup>100</sup>

15. The Office of the Special Rapporteur considers the state of freedom of expression in Chile to be particularly grave. The practice of prior censorship and the application of *desacato* laws by the Chilean authorities severely curtail freedom of expression. The Special Rapporteur recognizes the good will of the current administration, as well as its predecessor, to seek mechanisms that will ensure the unrestricted enjoyment of freedom of expression. Nonetheless, the efforts made by the authorities have not yet had the desired results. Cases of prior censorship of films and books, the judicial persecution of journalists Alejandra Matus and José Ale of the newspaper *La Tercera*, and the recent lawsuit brought against the daily

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<sup>99</sup> See Annex, Press Release 21/2000 Office of the Special Rapporteur for Freedom of Expression, March 8, 2000.

<sup>100</sup> See Inter-American Court of Human Rights, Compulsory Membership in a Professional Association Prescribed by Law for the Practice of Journalism (Arts. 13 & 29 American Convention on Human Rights), Advisory Opinion OC-5/85 of November 13, 1985. Series A, No. 5, para. 70.

newspaper *El Metropolitano* are clear examples of the worrisome state of freedom of expression in that country. The Office of the Special Rapporteur is confident that the current Chilean authorities will find mechanisms conducive to the immediate improvement of this situation.

16. The Special Rapporteur views with great satisfaction the approval by the Chamber of Deputies of the “Ley sobre Libertades de Opinión e Información y Ejercicio de Periodismo” (“Law on Freedom of Opinion and Information and the Practice of Journalism”), known as the Press Law, which among other reforms, modifies Article 6(b) of the State Security Law. Although as of the date of the publication of this report, this law continues to be pending before the Senate, various authorities have expressed the support that exists for the passage of this bill and its prompt conversion into law. Additionally, the Special Rapporteur received information about a bill that would modify Article 19 of the Constitution, repealing the provision on censorship of films. The Special Rapporteur expresses his satisfaction with these initiatives, which, if approved, will represent a significant advance towards bringing domestic legislation into conformity with Article 13 of the American Convention.

17. The Special Rapporteur also notes that the mentioned modifications must be accompanied by other initiatives that would repeal other Chilean legal norms that violate Article 13 of the American Convention, such as the *desacato* provisions found in the Penal Code.

18. The Office of the Special Rapporteur continues to be seriously concerned about the situation of the press in Colombia. The murder of four journalists and the forced exile of seven journalists during the year 2000, without taking into account those who did not report their departure from the country nor the attacks they suffered, and the hundreds of death threats and other attacks on journalists taking place on a daily basis in Colombia present an alarming panorama for the free and full enjoyment of freedom of expression. In December of 2000, the Office of the Special Rapporteur organized a *Workshop on Freedom of Expression in Colombia* that was attended by important independent organizations working in defense of this right. These groups agreed to coordinate with the Office of the Special Rapporteur on activities aimed at seeking a rapid solution to this situation.

19. The Office of the Special Rapporteur recognizes the efforts made by the Colombian authorities to implement measures that will put an end to the current crisis. In particular, it supports the creation of the Sub-unit specializing in the investigation of murders of journalists within the Human Rights Unit of the Attorney General of the Nation. According to several local organizations, as well as other Colombians consulted, this represents a positive step in the quest for solutions to the current problems. In addition to the work of the Sub-unit, the work of various civil society organizations engaged on a daily basis in the endless task of defending and protecting this right must be recognized.

20. However, given the seriousness of the internal conflict in Colombia, the Special Rapporteur considers that current efforts are insufficient to ensure full respect for the enjoyment of the right to freedom of expression. Both the work of the Sub-unit and of the independent organizations must be supported with more human and financial resources if they are to be more effective in protecting the physical integrity of journalists in Colombia and the free exercise of their duty to impart information. Attacks on Colombian journalists and the mass media are not only attempts against their physical integrity but also violations of the right of all Colombians to information.

21. The Special Rapporteur expresses his great concern about some statements made during the year 2000 by Hugo Chavez, President of the Bolivarian Republic of Venezuela, against the press. Public officials like President Chavez must defend, promote and guarantee the full exercise of freedom of expression. In some circumstances, the expressions of public officials, particularly those of the President, can create an atmosphere of hostility for the free exercise of freedom of expression. The Office of the Special Rapporteur considers that some expressions of President Chavez during the past year could constitute a mechanism of direct and indirect pressure on the communications media, journalists and other social communicators. Due to the exemplary influence which the President of a Republic has, his expressions might serve as a model for lower ranking public officials who might consider it legitimate to address the media in a similar manner.

22. In this chapter, the Special Rapporteur also makes reference to information received during the final stages of drafting this report regarding events in Guatemala and

Panama which could jeopardize the right to freedom of expression in both countries. Additionally, the Special Rapporteur mentions with concern passage of the law on Compulsory Membership in the Journalists' Association in Nicaragua and the inquietude expressed by various sectors of Honduran civil society about the existence of serious violations against freedom of expression.

**C. Status of freedom of expression in some member States**

**1. Progress made in freedom of expression**

**a. Peru**

23. The Special Rapporteur wishes to acknowledge the major strides made by Peru in re-establishing freedom of expression since Alberto Fujimori's renunciation of the presidency in November of the year 2000.

24. It should be noted that in the two-and-a-half years of his Office's existence, the Special Rapporteur has received over 160 reports of harassment, threats, judicial persecution and violent attacks on investigative journalists and independent media or media critical of the government. The information received during the year 2000 from different organizations that work for the defense and protection of freedom of expression is detailed later in this chapter. The Special Rapporteur repeatedly reported that, during the Fujimori government, there was a systematic plan of harassment on the part of intelligence and security forces in Peru, designed to silence criticism and the investigation of corruption and acts of violence.<sup>101</sup>

25. The Special Rapporteur hopes that the new government will take the necessary steps to guarantee and protect freedom of expression in Peru, in accordance with the existing international human rights standards and with the Declaration of Principles on Freedom of Expression. It is also recommended that a serious, effective and independent investigation be conducted into acts of harassment and violence to which media personnel and investigative journalists may have been subjected in Peru under the former government.

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<sup>101</sup> See Annual Report of the Office of the Special Rapporteur for Freedom of Expression, 1999. p.41.



**b. Guatemala**

26. Without prejudice to the serious concern of the Special Rapporteur regarding the cases of aggression and threats against social communicators that are mentioned in a later section, the Special Rapporteur expresses his satisfaction with some measures recently adopted by the Guatemalan government, seeking to comply with the recommendations developed during the Special Rapporteur's visit in April of 2000.<sup>102</sup>

27. The Office of the Special Rapporteur received information that on April 2, the Secretary of Strategic Analysis of the Office of the President of the State made public during a press conference a bill on free access to information that had been submitted to the Congress of the Republic.

28. Additionally, the Office of the Special Rapporteur was informed that on March 7, a Ministerial Agreement (No. 395-2001) was issued. This authorized the loan of a radio frequency to the National Association for Communication, Culture, Art and Development so that it could share the use of the broadcast time, without charge, with municipalities, non-profit foundations and associations and community organizations.

29. Finally, the Special Rapporteur learned that the President of the Republic announced on March 23 that he had recommended that the Secretary of Strategic Analysis begin studying a legislative reform project on radio and television concessions in order to incorporate democratic criteria that guarantee equal opportunity of access to these.

30. This information was received while the Commission was finalizing the chapter on freedom of expression for this annual report. Due to the lack of available time, the Office of the Special Rapporteur could not evaluate whether or not the information received complied with the recommendations formulated during the visit. Without prejudice to this, the information

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<sup>102</sup> See Annex, Press Release 24/00.

received is a good indication of the will of the authorities to comply with the Special Rapporteur's recommendations, in search of a broader protection of freedom of expression in Guatemala.

## **2. Countries without freedom of expression**

### **a. Cuba**

31. Cuba denies its citizens' rights to freedom of expression and access to information. The legal system places countless restrictions on the ability to disseminate and receive information. Moreover, tactics of intimidation and repression are used to put further pressure on journalists and dissidents to prevent them from criticizing the government.

### **a. Legal Framework for Freedom of Expression**

32. The right to freedom of expression is guaranteed in the Cuban Constitution only insofar as its exercise "conforms with the purposes of a socialist society."<sup>103</sup> Article 62 declares it a punishable offense to exercise any of the constitutional freedoms in a manner that is "contrary to that which is established in the Constitution and the laws, or contrary to the existence and aims of the socialist State, or contrary to the Cuban people's decision to build socialism and communism."

33. Any obstacle to the free discussion of ideas and opinions restricts freedom of expression. Prior conditioning of expression, such as truthfulness, timeliness or impartiality, among other conditions, is incompatible with the rights provided for in international instruments. The Special Rapporteur believes that the prohibition of speech that does not conform with the purpose of a socialist society is a form of prior conditioning.

34. The Constitution further limits freedom of expression by establishing control over communications media. Article 15 of the Constitution states that the means of communication are the property of the state and may not be privately owned. Article 53 indicates that the

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<sup>103</sup> Article 53 of the Constitution of Cuba.

purpose of this restriction is to ensure that the press, radio, television, cinema and other means of communication can only be used for the benefit of “the working people and in the interest of society.” The Special Rapporteur believes that the imposition of legal mechanisms to exercise control over the media and other social communicators has a negative effect on the respect for and protection of freedom of expression. Such impositions deny individuals their fundamental right to participate fully in social, political, economic and cultural life.

35. The government uses this provision on ownership and control to censor the official media and prevent them from reporting any information considered disadvantageous to government interests.<sup>104</sup> On this point, the Declaration of Principles on Freedom of Expression emphasizes:

Monopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the pluralistic and diversity which ensures the full exercise of people’s right to information. The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.<sup>105</sup>

36. This principle applies to state controlled as well as privately controlled monopolies.

37. In addition to the provisions of the Constitution, numerous sections of the Penal Code are used to suppress journalists and others who speak out against the government. Many of the offenses, which subject the accused to prison terms, are vaguely defined so as to apply to a wide range of speech. Such offenses include: “*desacato*,” or disrespect;<sup>106</sup> sedition;<sup>107</sup> “enemy propaganda”;<sup>108</sup> “acts against the security of the state”;<sup>109</sup> “resistance”;<sup>110</sup>

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<sup>104</sup> See discussion of official and independent media, *infra*.

<sup>105</sup> Principle 12, Declaration of Principles for Freedom of Expression.

<sup>106</sup> Article 144.1 of the Penal Code of Cuba.

<sup>107</sup> Article 100 of the Penal Code.

<sup>108</sup> Article 103.1 of the Penal Code.

<sup>109</sup> Articles 124 & 125 of the Penal Code.

<sup>110</sup> Article 143.1 of the Penal Code.

“public disorder”,<sup>111</sup> “instigation to commit a crime”,<sup>112</sup> “damages”,<sup>113</sup> “spreading of unauthorized news”; “insulting of patriotic symbols”,<sup>114</sup> “illicit association”,<sup>115</sup> and “dangerousness.”<sup>116</sup>

38. In February of 1999, the “Law on Protection of the National Independence and Economy,” was passed. Now widely known as “Law 88,” this law allows the government to control information that is disseminated within its borders. Law 88 makes it a crime to impart, search for or obtain subversive information or to bring subversive materials into the country, reproduce them or circulate them. It also criminalizes collaboration—either direct or through third parties—with radio transmitters, newspapers, magazines or other mass communications media for the purpose of disseminating subversive materials. This law establishes penalties of up to 20 years imprisonment, confiscation of personal belongings and large fines for the authors of these acts and their accomplices.

#### **b. Institutional Framework of Media**

39. The official media in Cuba consists of the daily newspapers *Granma* and *Juventud Rebelde*, the weekly *Trabajadores*, the magazine *Bohemia*, a number of national and regional radio stations and two television stations. According to a recent report by Reporters Without Borders, a French-based non-governmental organization devoted to press freedom, these media “publish or broadcast articles and reports chosen, reviewed and amended to suite [sic] the government’s ideological interests.”<sup>117</sup> They “devote a large part of their meagre columns or limited broadcasting time (six hours per channel per day during the week and fifteen hours per day over week-ends) to speeches made by Fidel Castro and official propaganda.”<sup>118</sup>

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<sup>111</sup> Article 200-201 of the Penal Code.

<sup>112</sup> Article 202 of the Penal Code.

<sup>113</sup> Article 339 of the Penal Code.

<sup>114</sup> Article 203 of the Penal Code.

<sup>115</sup> Article 208 of the Penal Code.

<sup>116</sup> Article 72 of the Penal Code.

<sup>117</sup> Reporters without Borders, “Harassment, exile, imprisonment: One hundred independant journalists face the state,” Sept. 2000, available at <http://www.rsf.fr/uk/html/ameriques/rapport/cubauk.html>.

<sup>118</sup> *Id.*

40. Independent media, which operate outside the scope of the Cuban Constitution, are growing despite the fact that they are subject to constant government harassment and lack of funding. *Reporters Without Borders* noted in a 2000 report that there are 18 independent news agencies in Cuba, four of which operate in the provinces. There are over one hundred independent journalists, most of whom are affiliated with one of these agencies, an increase in the past decade. Independent journalists attempt to transmit news to foreign radio, print and Internet sources by telephone or fax. According to the information received, the government tries to deprive independent journalists of phone lines and frequently taps the phone lines—their own or those of friends and family members—that they use to transmit information.

41. There is also an independent library movement, which offers the public access to books that have been banned by the government. Several independent libraries have been established in Cuba since 1998, when the first such library, the *Biblioteca “Félix Varela”* was established. Independent libraries are subjected to the same types of harassment as the independent media, including searches, confiscation, and arrests and detentions of librarians.<sup>119</sup>

42. The government also restricts the flow of information to and from the country. It attempts to jam foreign radio transmissions. Many Cubans rely on short-wave radios as their primary source of information about the outside world.

43. Access to the Internet is limited. Anyone wishing to have access to the Internet must have government permission, according to the law. However, many Cubans have found other ways to connect to the Internet. The government filters sites that it finds objectionable and also makes those who are granted Internet access sign a contract which restricts them from looking at material that “violates moral principles of Cuban society or the laws of the country.”<sup>120</sup> Those that have access to e-mail “strongly suspect that . . . messages are read by

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<sup>119</sup> Amnesty International.

<sup>120</sup> Reporters sans Frontières, *supra* note 14.

the secret services since messages from abroad arrive several hours after being sent or not at all.”<sup>121</sup>

### **c. Violations of Freedom of Expression in 2000**

#### **Detentions**

44. In 2000, there were several cases of arrests, detentions, interrogations and threats against independent journalists and dissidents. On January 20, José Orlando González Bridon, president of the *Cuban Confederation of Democratic Workers* and writer for the *Prensa Libre de Cuba* was detained for several hours and questioned about his writings. He was threatened with prosecution under Law 88 for discrediting the Cuban state, but was not charged.<sup>122</sup>

45. On July 15, Ricardo González Alfonso, an independent journalist and a correspondent for *Reporters Without Borders*, was detained, interrogated for six hours and released.<sup>123</sup>

46. On July 21, Luis Alberto Rivera Leyva, director of the *Agencia de Prensa Libre Oriental* (APLO), was arrested before the trial of two opponents and released afterwards, allegedly to prevent his reporting on it. Rivera was threatened, detained and put under house arrest at least seven more times in 2000.<sup>124</sup>

47. On September 15, Jesús and Jadir Hernández Hernández, two brothers who report for the independent news agency *Havana Press*, were detained for over three days in a small town outside Havana, according to foreign press reports and *Committee to Protect Journalists* (CPJ) sources in Cuba. The agents confiscated a typewriter, electronic organizer,

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<sup>121</sup> *Id.*

<sup>122</sup> Human Rights Watch, New York.

<sup>123</sup> Reporters without Borders, Paris, France.

<sup>124</sup> Human Rights Watch.

and manuscript articles written by the brothers. They were interrogated and threatened with prosecution for “contempt” and “spreading false news” and with additional charges under Law 88. They were released September 18. The brothers have been harassed on numerous other occasions, ordered to appear at the State Security Department and interrogated.

48. On November 9, independent journalist Omar Rodríguez Saludes, director of the independent news agency *Agencia Nueva Prensa*, was arrested by the Department of State Security. His home was searched and he was detained for a day at the Sixth Unit of the National Police and the headquarters of the State Security Department.<sup>125</sup>

49. The Special Rapporteur has received additional reports of at least nineteen similar incidents involving independent Cuban journalists or dissidents. Many of these incidents have involved threats of prosecution under Law 88. Another tactic that has become increasingly common in these situations is releasing detainees in remote locations, with no money or identification.

50. Arrests and detentions were also used to harass foreign journalists and to prevent them from obtaining information about the situation of independent journalists and dissidents in Cuba. On June 18, Italian freelance journalist Carmen Butta was detained after meeting with independent journalists as part of her research for an article on the Cuban independent press.<sup>126</sup>

51. On August 17, French journalist Martine Jacot was detained and interrogated at the Havana airport by six members of the Cuban security forces. She had spent a week in Cuba, on a mission for *Reporters Without Borders*, interviewing independent journalists and family members of incarcerated journalists. Jacot’s video camera, two video cassettes and some documents were seized.<sup>127</sup>

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<sup>125</sup> Inter-American Press Association (IAPA).

<sup>126</sup> Human Rights Watch.

<sup>127</sup> Reporters without Borders, Paris, France.

52. On August 29, Birger Thureson, Peter Götell and Elena Söderquist, three Swedish journalists, were arrested in Havana by state security agents after meeting with independent journalists at a workshop on freedom of the press. They were accused of violating their tourist visas by engaging in journalistic work and were deported after spending two days in detention.<sup>128</sup>

53. On January 12, 2001, two prominent citizens of the Czech Republic were arrested on charges of “subversion” and of being US agents because they met with two Cuban dissidents. Ivan Pilip is the former Czech Minister of Finance and is currently a member of Parliament. Jan Bubenik, a member of a pro-democracy foundation, was an anticommunist student leader during Prague’s “Velvet Revolution” of 1989. The two were held in jail for 24 days, despite the international outcry over this incident and efforts to resolve the issue through diplomatic channels. They were finally released after signing a “confession” for breaking the law on subversion.<sup>129</sup>

### **Mass Arrests**

54. In the weeks leading up to December 10, according to an *Amnesty International* report, as many as 200 people were arrested because of their suspected involvement in planning anti-government demonstrations or marches for Human Rights Day. The arrested individuals were held in custody in order to prevent their participation in “counter-revolutionary” activities. Most were released within 48 hours, but several were held for longer periods of time and at least two were tried and sentenced. Angel Moya Acosta, a member of the illegal *Movimiento Opción Alternativa*, and Julia Cecilia Delgado, director of the Gertrudis Gomez de Arellaneda Library and president of the *Asociación por la Reconciliación Nacional y el Rescate de los Valores Humanos*, were tried for “disrespect” and both were sentenced to a year in prison. Angel Moya Acosta was also banned from travelling to Havana, where his wife and children live, for ten years. Acosta had also been arrested in December 1999, again for being involved in the organization of peaceful protests for Human Rights Day. He was charged with resistance, public disorder and instigation to commit crime, but was released in August 2000

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<sup>128</sup> Human Rights Watch, CPJ, RSF.

<sup>129</sup> *The Miami Herald*, Miami, United States.



without ever having been tried. Leonardo Bruzón Avila, president of the *Movimiento Pro Derechos Humanos 24 de Febrero*, and Marcos Lázaro Torres León, national coordinator of the *Partido Democrático 30 de Noviembre Frank País*, were reportedly still held in detention without charge as of the issuing of *Amnesty International's* report, more than 10 days after their arrest.<sup>130</sup>

### **Criminal Convictions**

55. According to information received, in January, Victor Rolando Arroyo Carmona, a longtime government opponent who wrote for the independent press agency *Union of Independent Cuban Journalists and Writers*, was sentenced to six months in prison for “hoarding toys.” He had toys in his home that had been paid for by Cuban exiles in Miami and that he was planning to donate to poor children. His house was searched on January 25 and over 140 toys were confiscated. *Amnesty International* believes that his arrest was due to government disapproval of his journalistic activities and his links with Miami exile groups. Arroyo was released in July after serving the full six-month prison term. This was not the first time Arroyo had been imprisoned. He had previously been jailed for one year and 9 months in 1996 for *desacato* involving a police officer. *Human Rights Watch* also reports that on October 16, after Arroyo had been released from prison, he was beaten and insulted by state security agents. “He and another dissident were picked up from a friend's house, driven to the police station in Güines, beaten *en route*, and then driven dozens of miles away and released after having been beaten again.”<sup>131</sup>

56. On February 25, Dr. Oscar Elías Biscet González, president of the *Lawton Human Rights Foundation*, received a three-year prison sentence for dishonoring patriotic symbols, public disorder and instigating delinquency. Dr. Biscet had been arrested in the context of the November 1999 incidents surrounding the Ibero-American Summit.<sup>132</sup> He was planning a march to protest human rights abuses and was arrested during a press conference

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<sup>130</sup> Amnesty International, “Cuba marks Human Rights Day with mass detentions and sentences for dissidents,” December 14, 2000.

<sup>131</sup> Human Rights Watch, *World Report 2001*, at 123.

<sup>132</sup> During the November 1999 Ibero-American Summit held in Havana, an estimated 260 dissidents were detained and others placed under house arrest in an effort to prevent anti-government demonstrations. Most were released after short periods of time, but several remained in prison, some for many months without ever being charged or tried.

at his home. The same day, two other protesters, also arrested during the Summit in November 1999, were convicted of “public disorder.” Eduardo Díaz Fleitas, vice president of the *Fifth of August Movement*, was sentenced to a year in prison. Fermín Scull Zulueta was sentenced to a year of house arrest. The two had been involved in a demonstration to demand respect for human rights when some government supporters tried to stop them.<sup>133</sup>

57. In July, Nestor Rodríguez Lobaina, president of the *Movimiento de Jóvenes Cubanos por la Democracia* (Cuban Youth Movement for Democracy), was convicted of *desacato*, public disorder and damages and sentenced to 6 years and 2 months in prison. Eddy Alfredo Mena y González was convicted on same counts for 5 years and 1 month. Rodríguez has been arrested and imprisoned on several other occasions due to his opposition activities. *Amnesty International* has called both men prisoners of conscience, saying that they have been imprisoned for the non-violent exercise of their right to freedom of expression and association.

58. Three journalists continued to be imprisoned throughout 2000, based on earlier convictions. Manuel Antonio González Castellanos, a correspondent for the independent news agency *Cuba Press*, and Bernardo Arévalo Padrón, founder of the independent news agency *Línea Sur Press*, were serving prison terms for *desacato*. Manuel Antonio González Castellanos was released on February 26, 2001 after two-and-a-half years in prison; his sentence was 31 months. Arévalo Padrón remains in prison as of this writing. Jesús Joel Díaz Hernández, the executive director of the independent news agency *Cooperative Avileña de Periodistas Independientes* (CAPI), had served two years of a four-year sentence for “dangerousness,” when he was released on January 17, 2001.<sup>134</sup> Also imprisoned throughout 2000 was dissident Vladimiro Roca Atúnez, one of the four leaders of the *Grupo de Trabajo de la Disidencia Interna* (Internal Dissidents’ Working Group) who were incarcerated and convicted in March 1999 for “acts against the security of the state” and sedition because of an analytical paper they had released entitled “La Patria es de Todos” (“The homeland is for everyone”). The paper critiqued aspects of the Cuban economy, Cuba’s approach to human

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<sup>133</sup> Human Rights Watch, Amnesty International.

<sup>134</sup> Reporters without Borders, Paris, France.

rights and its one-party political system.<sup>135</sup> Roca Atúnez has not been released as of this writing.

59. There were also some releases of political prisoners in 2000. On April 7, Orestes Rodríguez Horruitener was conditionally released after serving 3 years of a 4-year sentence for “enemy propaganda,” and he left the country on October 26, 2000. On June 1, Maritza Lugo Fernandez, vice president of the illegal *Partido Democrático 30 de Noviembre Frank País* was released after serving over 5 months in prison without a trial. She was eventually charged with “public disorder,” charges which may still stand, according to *Amnesty International*. On June 10, Guido Sigler Amaya was transferred from prison to house arrest, and was freed on July 9. His brother Ariel Sigler Amaya was freed on August 5. They, along with Angel Moya Acosta, are members of the *Movimiento Opción Alternativa* and were arrested on December 15, 1999 after a demonstration in Pedro Betancourt village in Matanzas province on December 10 to celebrate the 51<sup>st</sup> Anniversary of the Universal Declaration of Human Rights. Charged with resistance, public disorder and “instigation to commit a crime,” they were never tried or sentenced.<sup>136</sup>

### Other Forms of Harassment

60. In addition to arrests and detentions, other means have been used to harass journalists and prevent them from releasing information that is objectionable to the government. On August 9, two presumed State Security agents posed as journalists and gained entry to an apartment where *Cuba Press* had been operating. According to information received, they took documents, books, magazines and office equipment, which have never been recovered.<sup>137</sup>

61. According to *Amnesty International*, “[s]ometimes dissidents are told not to leave their homes and threatened with punishment if they do so. The tactic of house arrest is often

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<sup>135</sup> In May 2000, the other three leaders—Martha Beatriz Roque Cabello, Felix Antonio Bonne Carcasses and Rene Gomez Manzano—were granted conditional early release.

<sup>136</sup> Amnesty International.

<sup>137</sup> RSF

used when the government wishes to keep a large number of dissidents away from events such as international meetings, public events or trials[.]”<sup>138</sup>

62. There have been numerous reports of physical assaults of journalists by unidentified attackers. These attacks are often presumed to have been carried out by members of the Department of State Security. Amnesty International reported the following:

63. These are organized by government officials using mass organizations that support the government and which involve being verbally abused and sometimes physically assaulted by government supporters for being a “counter-revolutionary.” Government supporters are given certain rights to intimidate, threaten, or even attack those seen to be counter-revolutionaries. According to Article 3 of the Constitution, “All citizens have the right to fight using all means, including armed struggle, when no other resort remains, anyone who tries to damage the political, social and economic order established by the Constitution.”<sup>139</sup>

64. Sometimes journalists and dissidents or their families are denied permits to exit or enter the country. For example, in April 2000, Ohalys Victores, a reporter with *Cuba Voz*, was denied an exit permit for “unspecified reasons of state.” The brother of independent journalist Raúl Rivero, of *Cuba Press*, was prevented from entering the country in May when he tried to visit his elderly mother. Rivero’s wife was also refused permission to travel to Miami to visit her daughter.

65. Other harassment tactics that have been reported include eviction, dismissal from jobs, smear campaigns by the official media and forced exile.

### **Conclusions and Recommendations**

66. In Cuba, there is a climate of hostility and fear with respect to the exercise of the right to freedom of expression. The Special Rapporteur urges the authorities to respect the

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<sup>138</sup> Amnesty International, “Cuba: Short Term Detention and Harassment of Dissidents,” April 2000, available at <http://www.web.amnesty.org>.

<sup>139</sup> *Id.*

independent press organizations in order to allow for a plurality of voices in the media. Additionally, he asks that the government end censorship of the printed, electronic and broadcast media and repeal laws restricting freedom of expression. The Special Rapporteur urges the authorities to stop the harassment and intimidation of dissidents and independent journalists as well as the destruction of materials produced by communications media. Finally, the Special Rapporteur exhorts the Cuban government to recognize its citizens' right to the full enjoyment of freedom of expression and information, as established under international human rights standards.

### **3. Countries with serious limitations on freedom of expression**

67. Although the status of freedom of expression in some member States continues to be of serious concern to the Special Rapporteur, in 2000 this office considered that, despite the existing problems with the exercise of that right, there is no State in which freedom of expression is seriously restricted through the use of a state policy aimed at controlling the free expression of ideas and opinions in a broad and systematic manner.

### **4. Countries that Merit Special Attention**

68. This section cites other incidents of concern for the Special Rapporteur that have occurred during 2000. In one form or another, problems exist in every state in the hemisphere with respect to the exercise of freedom of expression. However, in this section, states which merit greater attention by the Special Rapporteur are mentioned, due to the seriousness of the information received, which indicates a significant limitation in the exercise of the right to freedom of expression.

#### **a. Chile**

##### **Overview**

69. Chile celebrated its return to democracy in 1989, after a plebiscite held in 1988, in which the "NO" vote by citizens removed then dictator Augusto Pinochet Ugarte. The first

democratic president took office in 1990. Despite the previous negotiation of amendments to the Political Constitution of the Republic, which represented a definite step towards greater human rights protection, sections of the Constitution and the laws still reflect a certain authoritarian tradition, which must be changed.

70. The progress Chile made by ending the persecution and harassment of journalists, so common during the dictatorship, is clearly a major step. However, the Special Rapporteur observes with concern that more than 11 years after the return to democracy, legislation and practices that are clearly restrictive of freedom of expression continue to exist. The advances made have resulted in the repeal of some administrative measures, such as the requirement of authorization to publish print media, and the gradual elimination of prior censorship (according to information received by the Special Rapporteur, the last time a film was censored in Chile was in 1994). These measures have been inadequate, however. Chilean legislation continues to be some of the most restrictive in the hemisphere in terms of freedom of expression.

71. Among the most serious problems are the contempt, or *desacato*, laws and the legislation on prior censorship in force in the country.<sup>140</sup> The Special Rapporteur has received numerous reports of the use of these standards to limit freedom of expression. This report focuses on these two issues. However, the Special Rapporteur has been informed of a growing concern about other limitations on the exercise of this right.<sup>141</sup>

72. For example, the Special Rapporteur views with concern the existence of criminal libel and slander laws. The laws regarding the protection of individuals' honor should be revised to create a distinction between public and private persons. The Declaration of

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<sup>140</sup> The Inter-American Court of Human Rights stated that the State of Chile had failed to honor its general obligation to respect and guarantee the rights protected by the Convention and to adapt its domestic laws to the provisions thereof, as established in Articles 1.1 and 2 of the American Convention on Human Rights. See Inter-American Court of Human Rights, Case: *The Last Temptation of Christ*, Judgment of February 5, 2001, *supra* note 2, paragraph 90.

<sup>141</sup> See *La Invisible Mordaza, El Mercado contra la Prensa* (The Invisible Gag: the Market vs the Press), by Hernan Uribe, Editorial Cuarto Propio, Santiago, Chile. First edition, September 1999; Working Documents, Freedom of Expression Program, School of Journalism, University of de Chile, issues 1,2,3, and 4; "*Los límites de la Tolerancia: libertad de expresión y debate público en Chile*" [Limits on Tolerance: Freedom of Expression and Public Debate in Chile], Human Rights Watch, Lom Ediciones, Santiago, Chile, 1998.

Principles on Freedom of Expression establishes in its Principle 10 that: "Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news."

73. The Special Rapporteur has received a number of troublesome complaints regarding the use of these norms as a means to restrict citizens' freedom of expression. Among these, he has received the following information: on January 8 of 1998, Fernando Paulsen, director of the newspaper *La Tercera*, and a journalist from the same newspaper, José Ale, were charged with libel and slander. The charges were based on a complaint submitted by the Minister of the Supreme Court, Servando Jordán, alleging a violation of the State Security Law. In another case, on August 20, 1991, retired General Sergio Arellano Stark filed a complaint for slander against the journalist Patricia Verdugo, author of the book *Los Zarpazos del Puma*, which describes the so-called "caravan of death."<sup>142</sup> The same year, Augusto Pinochet filed a complaint for libel and slander against the Director of the magazine *Punto Final* because of an article published in the periodical.

74. The Special Rapporteur visited Chile in June of 1999, invited to participate in two seminars on freedom of expression and information, related to the censorship of *El Libro Negro de la Justicia Chilena* (The Black Book of Chilean Justice).

75. As a result of this visit and acting on the mandate received from the IACHR, he expressed concern in his 1999 annual report about the existence of anachronistic legislation on freedom of expression in Chile. During his visit, the Special Rapporteur received a commitment from a number of authorities that they would introduce bills to modify or repeal the existing

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<sup>142</sup> Information based on *Documento de Trabajo No. 3, Cronología de la Libertad de Expresión en Chile, 1999-2000*, Claudia Lagos and Marcela Ravanal. May 2000. School of Journalism, University of Chile; *Documento de Trabajo No. 2, Los Usos de la Libertad de Expresión*, Felipe Gonzalez, Diego Portales, Rafael Otano. November 18, 1999. School of Journalism, University of Chile.

legislation on freedom of expression and information that is incompatible with the American Convention and other international human rights instruments.

76. During the Commission's recent visit to Chile for its 111<sup>th</sup> Extraordinary Sessions, the Commission received information regarding several bills that may be approved within a short period of time, which would repeal Article 6b of the State Security Law and Article 19 of the Constitution, which refers to the prior censorship of films. In the final stages of drafting this report, the Office of the Special Rapporteur received word of the approval by the House of Representatives of the previously mentioned Press Law, which, among other important reforms regarding freedom of expression that will be analyzed by the Special Rapporteur, modifies Article 6(b) of the State Security Law. The Special Rapporteur expresses his satisfaction with these initiatives, which in the event that they are passed, would represent an important step towards bringing domestic legislation into conformity with Article 13 of the American Convention on Human Rights.

77. Notwithstanding other standards that limit freedom of expression, this report focuses on the urgent need to amend contempt laws and those that authorize prior censorship. These laws are especially serious because they have been used on numerous occasions by the Chilean authorities to restrict freedom of expression, which seriously limits the work of social communicators.

## **1. Prior Censorship**

### **Political Constitution**

78. The Political Constitution of the Republic of Chile establishes freedom of expression as a general principle:

Article 19 N° 12



First subsection: [All persons are guaranteed] “The freedom to utter opinions and impart information, without prior censorship, in any form or by any means, without prejudice to the right of response to those offenses and abuses committed in the exercise of that freedom, in accordance with the law ...”

79. However, the final subsection of this article establishes: “The law shall establish a system of censorship for the screening and advertising of film productions.”

80. This article made it possible to create the Film Rating Council (*Consejo de Calificación Cinematográfico*), which has censored many films, including *The Last Temptation of Christ*<sup>143</sup>. The Film Rating Council was created by Decree Law No. 679 of October 1, 1974. This law empowers it to set guidelines for the screening of films in Chile and to rate films. The regulations for implementing that law are contained in Supreme Decree on Education No. 376 of April 30, 1975. The Film Rating Council is part of the Ministry of Education.

The Council is composed of:

- 1 director of Libraries, Archives, and Museums
- 3 members of the judiciary
- 3 representatives of the Board of University Rectors
- 1 representative of each one of the armed forces and police (4 in all)
- 3 representatives of the Ministry of Education
- 2 representatives of the public and private school centers for parents and guardians
- 3 representatives of the Professional Association of Journalists

Among the Council's tasks is that of rating films and videotapes in one of four categories:

- a) Approved for the general public

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<sup>143</sup>The Inter-American Court of Human Rights has established that: “the [Chilean] State has failed to comply with the general obligations to respect and guarantee the rights protected by the Convention and to adapt its domestic laws to the provisions of the Convention, enshrined in Articles 1.1 and 2 of the American Convention on Human Rights.” *The Last Temptation of Christ*, supra note, 2, paragraph 90.

- b) Approved for persons at least 14 or 18 years of age
- c) Approved for educational purposes
- d) Rejected

Rejected films fall into four categories:

- a) Films that promote or propagate doctrines or ideas contrary to the foundations of the nation or nationality, such as Marxism, etc.
- b) Those that offend states with which Chile has international relations
- c) Those that are contrary to public order, morality or good manners
- d) Those that incite people to commit antisocial or criminal acts

81. Similarly, the approval of any film may be “temporarily or permanently” suspended by a joint decision of the Minister of the Interior, Minister of Defense and Minister of Education “if the circumstances so warrant.”

82. Article 63 of the Regulations of the Council expressly regards videotapes as films and Law 18.853 established a regime for the inspection of videos.

83. The Special Rapporteur has learned that all film reels or videos, even for private use, upon clearing customs, are sent to the Council for rating. Once a film is rated, if it is approved by the Council, it is returned, and if it is rejected, it is confiscated. All film reels or video cassettes must go through this process. The Rapporteur has learned of a number of cases where individuals have made purchases on the Internet and by other means and have been subjected to censorship or bureaucratic red tape to recover their purchase once it is approved by the Council.

84. Prior censorship is expressly prohibited by the American Convention. The aforementioned standards are therefore in clear violation of this international instrument. The Rapporteur’s Report urges the Chilean Government to adopt immediate measures to conform its laws with international standards.

85. Additionally, the Special Rapporteur recalls that which is established in Principle 5 of the Declaration of Principles on Freedom of Expression with respect to prior censorship:

Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.

86. On prior censorship, the Inter-American Court, in its judgment of February 5, 2001, indicated:<sup>144</sup>

72. This Court considers that a state can incur international liability for acts or omissions by any branch or agency of government in violation of the American Convention, irrespective of its rank. In other words, the state is internationally liable for any act or omission imputed to the state, in violation of the rules of international human rights law. In this case, said liability was incurred by virtue of Article 19.12 of the Constitution [of Chile], which establishes prior censorship of film production and, therefore, determines the acts of the executive, legislative, and judicial branches.

87. The Rapporteur's Report expresses serious concern about the existence of numerous censored films in Chile during the democratic period. According to information received, 11 films have been censored since 1990 and many others were censored before then and still cannot be shown. These figures do not include all the censored videos, which would make the violation even worse, because the government is censoring what citizens may or may not view in private.

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<sup>144</sup> *The Last Temptation of Christ*. *Supra* note 2, para 88.

## 2. Contempt, or *desacato*, laws<sup>145</sup>

88. Law 12.927 of the State Security Law is the legal text embodying the contempt provisions that are most frequently used in Chile.<sup>146</sup> This law was passed in 1958 for the purpose of protecting the democratic system of government. However, as the Inter-American Commission has indicated:

The use of laws to protect the honor of public functionaries acting in their official capacities unjustifiably grants a right to protection to public officials that is not available to other members of society. This distinction indirectly inverts the fundamental principle in a democratic system that holds the government subject to controls, such as public scrutiny, in order to preclude or control abuse of its coercive powers. If we consider that public functionaries acting in their official capacity are the government for all intents and purposes, then it must be the individual's and the public's right to criticize and scrutinize the officials' actions and attitudes in so far as they relate to the public office."<sup>147</sup>

89. The Commission's opinion is reaffirmed by what happened in Chile during the military dictatorship when such provisions were systematically used to silence criticism of the government. During that period, moreover, punishable acts were broadened and sentences substantially increased, especially for crimes against public order. The reforms during the transition to democracy—known as the *Leyes Cumplido*—merely involved the elimination of most of the aggravating factors introduced during the dictatorship, but the current law closely resembles the one in force prior to the military dictatorship.

90. The preservation of these laws, which are contrary to the fundamental principles of democracy, has made it possible for them to be used against social communicators and persons critical of the authorities during the eleven years of democratic government. Among

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<sup>145</sup> See text and analysis of the *desacato* laws in Chile in the section of this report dedicated to *desacato* laws in the member States.

<sup>146</sup> See Working Document N° 2, *Los usos de la Libertad de Expresion*, Felipe Gonzalez, Diego Portales y Rafael Otano. November 18, 1999, School of Journalism, University of Chile. Article "*Leyes de Desacato y Libertad de Expresion*", page 17.

<sup>147</sup> IACHR, Annual Report 1994, Report on the Compatibility of *Desacato* Laws With the American Convention on Human Rights, page 218.

other cases, the Special Rapporteur has received information regarding the following judicial proceedings under the State Security Law: In February 2001, Hernan Gabrielli, Commander in Chief of the Chilean Air Force brought a complaint against Carlos Bau, Hector Vera and Juan Ruz. The complaint was based on a supposed violation of the State Security Law when Bau, Vera and Ruz accused Gabrielli of having committed acts of torture against Eugenio Ruiz-Tagle in 1973 at the air base of Cerro Moreno; on February 15, 2000, José Ale of the newspaper *La Tercera*, was sentenced by the Second Chamber of the Supreme Court to 541 days in prison, based on a complaint filed against him under Article 6(b) of the State Security Act by Servando Jordán, the ex-president of that tribunal, in January of 1998. Jordán felt that he had been insulted by a note written by the journalist and accused him of defamation of a public authority. Ale had been absolved in July of 1999 by the minister of the interior Alejandro Solis and later by a unanimous decision of the Court of Appeals of Santiago; on April 14, 1999, *El Libro Negro de la Justicia Chilena* by the journalist Alejandra Matus was requisitioned due to a complaint brought by the judge Servando Jordán, Minister of the Supreme Court. This complaint was based on the State Security Law. On April 20 of the same year, the Court of Appeals rejected two petitions for protection filed by the author; On June 17, 1999, the editors Carlos Orellana and Bartolo Ortiz of Editorial Planeta were charged with defamation and detained in connection with the publication of the *El Libro Negro de la Justicia Chilena*. Two days later, they were released on bond. On July 29, 1999, the Fifth Chamber of the Court of Appeals of Santiago revoked the indictment.

91. The existence of these norms and their use by the authorities constitutes a clear transgression of the right of all persons to express themselves freely and to receive information. The Special Rapporteur has confidence that the bills currently under consideration will be approved shortly in order that the internal legislation will begin to be brought into conformity with Article 13 of the American Convention.

**b. Colombia**

92. Based on information received from different human rights and freedom of expression organizations, the Special Rapporteur found that violence against Colombian journalists had not stopped. The situation in Colombia is different from that of the rest of the

member States because of its internal armed conflict. Many of the attacks and assaults on the press are carried out by armed dissident groups. It is the responsibility of the Colombian state “to prevent and investigate such occurrences, to punish the perpetrators, and to ensure that victims receive due compensation,” as established in Principle 9 of the Declaration of Principles on Freedom of Expression. The Special Rapporteur reiterates that violence against journalists, whether by means of assassinations, kidnappings, assaults or other types of threats, constitutes a violation of international and humanitarian law by the armed dissident groups and by the Colombian Government.<sup>148</sup>

93. In early 2000, María Alejandra González Mosquera, a journalist for the radio station *Super de Popayán* and a member of the NGO *Fundación para la Comunicación Popular*, fled the country after receiving threats from an armed dissident group.<sup>149</sup> Also, at the beginning of 2000, journalists Francisco Santos Calderón, editor of the daily newspaper *El Tiempo*; Ignacio Gomez, editor of the daily newspaper *El Espectador*; and Claudia Gurisatti, a television presenter, left the country after receiving death threats.<sup>150</sup>

94. On January 22, 2000, journalist Guillermo Cortés, Editorial Director of *Hora Cero*, a televised news program broadcast by *Channel A* in Bogotá, was kidnapped by six armed men from his estate in Bogotá. He was released on August 13.<sup>151</sup>

95. On February 14, 2000, two press vehicles belonging to *RCN* and *Radio Caracol*, were attacked by armed dissident groups. The attackers burned the vehicles and endangered the lives of the journalists, to express their dissatisfaction with the fact that, according to them, the press was controlled by the government and the army.<sup>152</sup>

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<sup>148</sup> Under humanitarian law, neither the civilian population nor civilians may be the targets of a military attack. Combatants, including those that do not belong to the country’s armed forces, are required to respect this law.

<sup>149</sup> IFJ.

<sup>150</sup> The principal independent organizations for the promotion and protection of freedom of expression have reported other cases of Colombian journalists who have had to leave Colombia as the result of attacks and attempts against their lives. Those mentioned in this paragraph are only a few examples.

<sup>151</sup> Committee to Protect Journalists (CPJ).

<sup>152</sup> IFJ.

96. On March 6, 2000, television announcer Fernando González Pacheco reported that he had received threats on his life and would have to leave the country.<sup>153</sup>

97. On April 10, 2000, two journalists were wounded in an explosion while they were covering an “armed strike” by some armed dissident groups in Cajibío, in the Cauca department. Carlos Andrés Gómez, a reporter for the news broadcast *90 Minutos* and correspondent for *TV Informativo 11 P.M.*, was wounded in his right leg and cameraman Genaro Muñoz, from *Pentavisión* and correspondent for *Noticiero de las 7*, was wounded in the knee.<sup>154</sup>

98. On April 13, 2000, the editorial room of the magazine *Alternativa* in Bogotá was broken into. The intruders locked two employees who happened to be at the office in a bathroom and took away documents, diskettes and other information belonging to the magazine. It is assumed that the motive of the attack was to prevent the publication of an article on an alleged conspiracy by some armed dissident groups to seize power in Colombia.<sup>155</sup>

99. On May 8, 2000, a group of eight journalists was attacked by gunmen on the Cimtarra river, between the departments of Bolívar and Santander, while they were traveling by boat. Although the journalists showed their press equipment and a white flag, the attackers did not hold their fire. The journalists were: Rafael Poveda from *Caracol TV*; Oscar Obregoso, *Caracol TV* cameraman; Germán Espejo, John Ripe, and Mauricio Anzola, *Caracol TV* technicians; Andrés Gil from *RCN TV*; Fernando Giraldo, cameraman from *RCN TV*; and Harold Joya, sound engineer from *RCN TV*. No one was wounded.<sup>156</sup>

100. On May 25, 2000, Jineth Bedoya, journalist with Bogotá’s *El Espectador*, was kidnapped and brutally attacked, allegedly by armed dissident groups. The kidnapping occurred in broad daylight, opposite a prison just outside Bogotá. She was released 10 hours later. It is

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<sup>153</sup> IFJ.

<sup>154</sup> IFJ.

<sup>155</sup> CPJ.

<sup>156</sup> IFJ.

believed that the motive for the kidnapping was the coverage by *El Espectador* of a conflict in the same prison, involving prisoners who were members of paramilitary groups.

101. On June 14, 2000, Eduardo Pilonieta, attorney and contributor to the daily newspaper *Vanguardia Liberal* in Bucaramanga, was wounded by two unidentified persons on a motorcycle. The journalist was shot three times. In December 2000, the Bucaramanga District Attorney's Office prosecuted the perpetrators of the attack.<sup>157</sup>

102. On June 20, 2000, more than 50 members of armed dissident groups intercepted a van delivering the daily newspaper *El Tiempo* in Bogotá, between Caracolicito and Alto del Bálsamo. The attackers held up the occupants of the van, seized the 3,000 copies of the newspaper and burned them in the street. This attack was not the first one reported against *El Tiempo*. On April 4, other armed dissidents had stolen 3,000 copies of *El Tiempo* in Aracataca and thousands more in the vicinity of Caperrucho.<sup>158</sup>

103. On August 16, 2000, investigators from the technical investigation team of the Public Prosecutor's Office in Colombia raided the premises of *RCN TV*. The operation was intended to seize some footage aired in the news on June 15, 2000, showing an interview with a member of an armed dissident group. *RCN TV* expressed its concern that such an operation by the courts could result in the removal of material from their archives in violation of source confidentiality and professional secrecy. The confidentiality of information sources is protected in Principle 8 of the Declaration of Principles on Freedom of Expression.

104. On October 5, 2000, journalist Andrés Gil Gómez, cameraman Gustavo González of *RCN TV* and the their driver, Pedro Manuel Pinto, were kidnapped by an armed dissident group on their way from Medellín to Bogotá. On October 6, armed dissidents kidnapped journalist Jaime Horacio Arango of the daily newspaper *El Colombiano* and a photographer for the same daily newspaper Jesús Abad Colorado. In both cases, the men were released hours later on the condition that press releases addressed to the government or the public were delivered or read.

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<sup>157</sup> Reporters Without Borders.

<sup>158</sup> CPJ.



105. On November 2, 2000, Carlos Armando Uribe and Jorge Otálora were kidnapped in El Olimpo, Tolima department, by a group of armed dissidents. Uribe, an agronomist, makes ecological programs for television and radio and is also a Sunday columnist for the newspaper *La Tarde de Pereira*. Otálora produces Uribe's television program, *Las aventuras del profesor Yarumo*. Uribe was released on November 9, but Otálora is still being held.<sup>159</sup>

106. On November 4, 2000, District Attorney Frontino Milton Javier Rodríguez Moreno, from the Antioquía region, was kidnapped by an armed dissident group. Rodríguez is known for his role in defending freedom of the press and expression in Colombia. Three other local officials had been kidnapped by armed groups the day before: Dr. Dora Helena Muñoz Perez, Amalfi Circuit Judge (*Juez Promiscuo del Circuito de Amalfi*); Dr. Jorge Humberto Betancur Echeverri, Amalfi District Attorney; and Jairo Manuel Carvajal Perez, Secretary of the Amalfi District Attorney's Office.

107. On December 6, 2000, a number of reporters, cameramen and photographers were taken hostage by armed dissident groups in the Antioquía department. The following individuals were kidnapped: Oscar Montoya, Oscar Alvarez and Alexander Cardona from *Caracol Televisión*; Fernando Tabares, Sergio Goez and Pedro Pinto from *RCN Televisión*; Yolanda Bedoya, Luis Fernando Marín and Gildardo Alvarez, from *CM&*; Diego Argáez from *Channel A*; Luis Benavides from *El Espectador*; and Miguel Jaramillo and his technical team from *El Noticiero de las 7*. The journalists were trying to reach Granada, on the eastern side of the department to cover a raid by the ninth front of the Revolutionary Armed Forces of Colombia (FARC). They were released 18 hours after their kidnapping.<sup>160</sup>

### **c. Bolivarian Republic of Venezuela**

108. During the year 2000, President Hugo Chavez expressed himself in ways that could be considered threatening to communications media and journalists. The Head of State's

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<sup>159</sup> *Id.*

<sup>160</sup> Press and Society Institute (IPYS) Lima, Peru.

attitude could contribute to the creation of an atmosphere of intimidation toward the press, which is not conducive to public debate and the exchange of opinions and ideas, necessary for a democratic society.

109. Unrestricted public debate of ideas and opinions is fundamental for the strengthening of democracy. The debate is enriched even further when public officials actively participate in it, allowing members of society to know the ideas and opinions of their leaders.

110. However, the Office of the Special Rapporteur considers that in some circumstances, the expressions of public officials can contribute to the creation of an environment that is counterproductive for the exercise of freedom of expression. Hostile and insulting expressions against social communicators in a repeated and sustained form can, in time, have a chilling effect on journalists and communications media, which can lead to self-censorship.

111. President Chavez hosts a weekly radio show called *Aló Presidente*, lasting for four to six hours, in which he has expressed himself in an intimidating manner against social communicators and communications media. The expressions of President Chavez, coming from the position of authority that he occupies, could have an intimidating effect on the press and on society.

112. Additionally, the President of the Republic's expressions carry with them the extra burden of being considered a model for public officials to follow. Lesser public officials may consider it acceptable to refer to communications media and journalists in the same way that the President does. Furthermore, public officials, in particular in the country's interior, are generally less subject to citizen control, due to the fact that their expressions are not limited by the criticism of the national mass media, as is the case with the President of the Republic. In this manner, a climate that is hostile to the press can be constructed, which facilitates criticism and attacks against the press and leads to self-censorship.

113. The Special Rapporteur trusts that the President of the Republic and other public officials will moderate their expressions against communications media and journalists, to avoid

creating a climate of intimidation and hostility against them that will prejudice the exercise of freedom of expression.

114. On October 20, 2000, the president broadcast a speech on television and radio insulting Dr. Andrés Mata Osorio, editor of *El Universal*, as well as the international press. Among other things, he called journalist Mata Osorio “caudillo,” “tyrant,” “corrupt,” “scoundrel” and “enemy of the rule of law and enemy of the people.” On November 7, 2000, he called a press conference of foreign correspondents, during which he discredited some Venezuelan magazines and newspapers and a group of Venezuelan journalists. He also attacked Colombian magazines *Semana* and *Cambio 16*, calling them “a disgraceful Colombian and continental oligarchy.”

115. In February 2001, during the celebration of the ninth anniversary of the 1992 *coup d'état*, Chávez denigrated journalists by saying: “Down with journalists and capitalism” and incited citizens to “call any journalist they see in the street names.”<sup>161</sup>

116. According to information provided by various independent organizations, on August 4, 2000, Judge Graudi Villegas ordered the house arrest of the journalist Pablo Lopez Ulacio, director of the weekly *La Razón*, for failing to appear at a hearing on that day. Lopez Ulacio was accused of defamation by Tobias Carrero, president of the company Multinacional de Seguros. The journalist had published articles in which he denounced supposed irregularities in the obtaining of public contracts by Multinacional de Seguros, by taking advantage of a personal relationship with the President of the Legislative Commission, Luis Miquilena. On February 7, 2001, the Inter-American Commission on Human Rights authorized precautionary measures in favor of Lopez Ulacio, who is currently in Costa Rica.

117. On January 8, 2001, Pablo Aure Sanchez, professor of law at the University of Carabobo, was detained by military intelligence forces because of a letter he wrote that was published in the daily newspaper *El Nacional*. The Third Military Tribunal considered that there were sufficient merits for the attorney to be tried for the crime set forth in Article 505 of the Code of Military Justice, which establishes penalties of three to eight years in prison for one

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<sup>161</sup> *Id.*

who “in any form insults, offends or slights the Armed Forces.” Venezuelan authorities informed the Special Rapporteur that the Armed Forces freed the attorney after three days in custody. The Special Rapporteur spoke by telephone with Dr. Pablo Aure, who expanded on the information about his arrest and explained that he was freed for health reasons, but that the process against him under the military’s jurisdiction continues.

**d. Guatemala**

118. In April of 2000, the Special Rapporteur visited Guatemala at the invitation of its president, Alfonso Portillo Cabrera, and in response to a request by various sectors of Guatemalan society. After the visit, the Special Rapporteur issued a press release with a preliminary analysis of the information gathered. The Special Rapporteur is currently preparing a special report about the state of freedom of expression in Guatemala that will be published in the next few months.

119. Without prejudice to the information that will be presented in the report on freedom of expression in Guatemala, the Special Rapporteur expressed his serious concern regarding the information received, which reflects a climate of tension between state authorities and some communications media, as well as an increase in recent months in the number of cases of intimidation of and threats against journalists.

120. Additionally, there exists in Guatemala a *de facto* monopoly in open VHF television channels. The existence of a *de facto* monopoly in television channels has been criticized by a number of Guatemalan authorities and nongovernmental organizations, and it is also an issue of great concern for the Special Rapporteur. The existence of a *de facto* monopoly in television channels seriously affects the Guatemalan people’s right to freedom of expression and information.<sup>162</sup> In this respect, the vast majority of the people interviewed by

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<sup>162</sup> In this respect, the nongovernmental organization IDEA (*Instituto para la Democracia y la Asistencia Electoral*) has established that:

[T]he evolution of television shows the characteristics of the formation of a private monopoly, with lower levels of competence. The operation of four (3, 7, 11 and 13) of the five open television channels is associated with the property of a predominantly Mexican capital consortium. This high level of media power, concentrated in a foreign consortium, becomes an extraordinary source of informative, cultural and economic power, with negative implications for the national democratic process.

the Special Rapporteur during his visit to Guatemala said that although the open television channels are registered to anonymous societies, the majority holder is essentially a single person. The Special Rapporteur wishes to reiterate that the existence of this monopoly is a serious obstacle to the full exercise of freedom of expression in the various sectors of Guatemalan society. The existence of monopolistic practices in communications media in the realm of television as well as radio and print media, is not compatible with the free exercise of freedom of expression in a democratic society.<sup>163</sup>

121. The following is some of the information received by the Special Rapporteur during his visit regarding incidents that constitute violations of freedom of expression.

122. On February 20, 2001, according to information received, a group of demonstrators who identified themselves as supporters of the government's party, the Frente Republicano Guatemalteco, gathered at the doors of the newspaper *El Periódico* with the aim of backing the Ministry of Communications, causing serious damage and physically assaulting journalists of this and other media. The demonstrators stated that the protest was motivated by some journalistic investigations undertaken by the newspapers *El Periódico* and *Prensa Libre* in relation to supposed irregularities in the concession of contracts by the Ministry. This type of attack against communications media restricts the fundamental rights of individuals and the full exercise of freedom of expression.

123. On May 14 and 19, 2000, Martín Juárez, Luis Escobar, Enrique Castañeda and Silvia Gereda, journalists of the newspaper *El Periódico* were the target of surveillance and telephone threats intended to persuade them not to publish the results of an investigation into the structure of Guatemala's intelligence services.<sup>164</sup>

124. On May 22, 2000, Sergio Méndez, a reporter for the radio news program *Guatemala Flash*, and Eduardo Pinto, a reporter for the newspaper *Nuestro Diario*, received

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International IDEA (*Instituto para la Democracia y la Asistencia Electoral*), *Democracia en Guatemala: La Misión de un Pueblo Entero*, Santa Fe de Bogotá, 1999, p. 199 and 201.

<sup>163</sup> See interpretation of Principle 12 of the Declaration of Principles on Freedom of Expression in Chapter II of this Report.

<sup>164</sup> Reporters without Borders (RSF).

death threats and harassment to try to force them to stop covering the trial of the assassination of Bishop Juan Gerardi.<sup>165</sup> In relation to these threats, the State of Guatemala reported that it has asked the General Director of the National Civil Police, as well as the Attorney General of the Republic, to facilitate and deepen the investigations with the aim of establishing the identity of those responsible.

**e. Panama**

125. The Special Rapporteur visited Panama in July of 2000, in response to an invitation from the government of President Mireya Moscoso and to requests from various Panamanian civil society organizations that the Special Rapporteur evaluate the situation in this country. After the visit, the Special Rapporteur issued a press release with his preliminary evaluations of his visit<sup>166</sup> and he is currently working on a report on the state of freedom of expression in Panama, which will be published in 2001.

126. Without prejudice to the information that will be presented in the report on freedom of expression in Panama, the Special Rapporteur expresses his concern for the increase in the use of *desacato* laws and other similar laws to silence journalists. During his visit to Panama, the Special Rapporteur was informed of the government's intention to introduce legislative reforms that would repeal these types of laws. Although the Panamanian state has implemented a series of reforms that repealed some of these laws, other laws remain in effect that continue to be used by public officials. In the Annual Report of the Office of the Special Rapporteur in 1999, the Special Rapporteur expressed his satisfaction about the advances in freedom of expression in Panama due to the repeal of part of the gag laws and urged the authorities to continue along this path. However, according to information received during the year 2000 and part of 2001, freedom of expression in Panama is facing new threats from public officials who are using the laws to silence some communications media and social communicators. According to information received, 70 journalists are being criminally prosecuted for libel and slander.<sup>167</sup>

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<sup>165</sup> *Id.*

<sup>166</sup> See Annex, Press Release No. 29/00.

<sup>167</sup> Panamanian daily newspaper *Panamá América* and Forum de Periodistas por la Libertad de Expresión.

127. On March 14, 2001, Juan Díaz, journalist with *Panamá América* and Rainer Tuñón, journalist with the daily newspaper *El Universal* were condemned to 18 months in prison for “crimes against the honor” of a public official. This prison sentence could be commuted to a fine of \$400 and a suspension of the right to exercise public functions for six months.<sup>168</sup> On March 19, 2001, a judge with the 14<sup>th</sup> Circuit of the Penal Court, Secundino Mendieta, replaced the prison sentence of both journalists with a 200 day fine (US \$2.00 per day).<sup>169</sup>

128. On May 25, 2000 journalist Carlos Singares, director of the daily newspaper *El Siglo*, was served a warrant for his arrest for publishing news, the content of which “attacks and offends the dignity, honor, and decorum of the Attorney General of the Nation, José Antonio Sossa,” who personally ordered the detention of the journalist for eight days. Also, on June 22, the same Panamanian official ordered a raid on the offices of the newspaper and the immediate arrest of the journalist. However, the journalist was not on the premises. Both the Office of the Special Rapporteur and other organizations that defend freedom of expression expressed their concern about this measure and sent letters to the Panamanian authorities. On July 7, the IACHR adopted precautionary measures in favor of the journalist. The Commission authorized the precautionary measures for a period of 30 days and asked the state to vacate the order of arrest against Mr. Singares and to guarantee his right to integrity, personal liberty and freedom of expression as established in the American Convention on Human Rights. On July 27, 2000, the Supreme Court of Panama denied the *habeas corpus* petition on behalf of Carlos Singares. On August 4, while the journalist was serving the eight-day prison sentence, a new contempt judgment was handed down, with a sentence of 18 months in jail, with reference to a newspaper article published in 1993 on former President Ernesto Pérez Balladares, who felt defamed by it and accused Singares of *desacato*.

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<sup>168</sup> Reporters without borders (RSF).

<sup>169</sup> *La Prensa* Corporation, March 23, 2001.

129. On July 14, 2000, journalist Jean Marcel Chéry, of the daily newspaper *Panamá América*, was sentenced to 18 months in jail, accused of contempt for publishing an article in the daily newspaper *El Siglo* in 1996.

130. On July 31, 2001, Law 38 was enacted, regulating the Charter of the Public Prosecutor's Office and General Administrative Procedure and restricting access to public information in its Article 70. One part of the law describes as "confidential or restricted information that which for reasons of public or private interest cannot be disclosed because it could cause serious harm to the society or the government or to the person subject to the restriction."<sup>170</sup> This restriction on access to information contravenes Principle 4 of the Declaration.

131. On October 2, 2000, journalist Mariella Patriau Hildebrandt and graphic reporter Adriana Navarro de Vivanco from the daily newspaper *Liberación* in Lima, Peru, were threatened and physically assaulted by Jaime Alemán, one of the attorneys of Vladimiro Montesinos, while they were trying to conduct an interview in Panama City.<sup>171</sup>

132. In December 2000, the Legislative Assembly of Panama rejected the bill to remove the contempt laws from its domestic law books. The Rapporteur received a letter from the Human Rights Ombudsman of Panama, Italo Isaac Antinori-Bolaños, expressing concern about the decision made by the Committee on Governance, Justice and Constitutional Matters preventing the expunging of contempt laws from Panamanian legislation. As indicated repeatedly, these laws are inimical to freedom of expression and to Principle 11 of the Declaration of Principles on Freedom of Expression. The action taken also contradicts the statements of made by President Mireya Moscoso to the Special Rapporteur during his visit to this country in July 2000.

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<sup>170</sup> RWP, IAPA, CPJ.

<sup>171</sup> Latin American Section, Human Rights Division, International Federation of Journalists, Lima, Peru.



133. Since October 1999, journalist Gustavo Gorriti,<sup>172</sup> who served as Associate Director of *La Prensa*, has been the object of a campaign of defamation, which apparently arose out of a series of articles published in August in *La Prensa* on alleged links between Attorney General José Antonio Sossa and drug traffickers. Surprisingly, an independent organization, called the *Committee for Freedom of Expression in Panama*, appeared and began to post defamatory posters against the journalist in Panama City that read: "Meet the killer of freedom of expression in Panama." This organization also referred to him as a "foreign spy" and called him an "untrustworthy person predisposed to commit treason." For its part, the *Frente de Abogados Independientes* called Gorriti *persona non grata* and urged him to leave the country.<sup>173</sup> The newspaper *La Prensa* reported that as part of this campaign of defamation, money was offered to other Panamanian journalists to write negative articles about *La Prensa*. Attorney General Sossa publicly accused Gorriti of having initiated a campaign of "discredit and lies" against him.

134. At the root of the incidents described, Attorney General Sossa filed a criminal complaint for defamation against Gorriti and in August of 2000, he and three of his colleagues—Miren Gutiérrez, Editor-in-Chief of the Business Section, and reporters Mónica Palm and Rolando Rodríguez—were summoned to testify. In an act of intimidation, the house of Gorriti and those of two of his colleagues were surrounded by the police in order to obligate the journalists to appear in the proceedings.

135. As a result of the proceedings, orders of detention were issued against the journalists, which were not executed due to a petition for *habeas corpus*. The journalists stated that the complaint presented by Sossa was not served in a timely manner and from the beginning the process was plagued by judicial irregularities.<sup>174</sup>

136. On January 12, 2001, Gorriti was granted a provisional stay of proceedings because there was insufficient evidence to prove the charges against him. On February 15,

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<sup>172</sup> Gustavo Gorriti, a Peruvian national, is a renowned journalist who has received a number of international awards, among them the prestigious *International María Moors Cabot Prize* and the *Rey de España Award*. He is also an important defender of freedom of expression in the Americas.

<sup>173</sup> CPJ, Annual Report 2000.

<sup>174</sup> Panamanian daily newspaper *La Prensa*, August 8, 2000.

2001, the journalist was dismissed from his job at *La Prensa*. On February 21, 2001, the Penal Court of Panama prohibited the journalist from leaving the country due to the ongoing judicial proceedings against him.<sup>175</sup> According to information received, due to an appeal filed on his behalf by his lawyer, Gorriti is currently in Peru, his country of origin.

137. On March 12, 2001, the Minister of Government and Justice, Winston Spadafora, presented a penal complaint for libel and slander and crimes against honor against the director of the daily newspaper *Panamá América*, Octavio Amat, the journalists Gustavo Aparicio and Jean Marcel Chéry and photographer John Watson Riley. This complaint was presented after the publication of an article in which it was reported that the farms belonging to Minister Spadafora and Comptroller Alvin Weeden were among the beneficiary properties of the Social Investment Fund.<sup>176</sup>

138. On March 20, 2001, Marcelino Rodríguez, of the daily newspaper *El Siglo*, was accused of libel and slander by the Solicitor General, Alma Montenegro de Fletcher, as a result of the publication of one of his articles in which he referred to the official as the owner of a dwelling acquired under dubious circumstances. The Solicitor General denied the allegation and filed charges against the journalist.<sup>177</sup>

139. On March 27, 2001, Vladimir Rodríguez, journalist from the daily newspaper *Crítica Libre* and *RCM Noticias*, was sentenced to a year in prison for the charges of libel and slander filed against him by the relatives of the Panamanian citizen, Rafael González. The journalist was accused by González's family of publishing erroneous information about the cause of his death. The journalist wrote in his article that González had died of starvation, when in reality he had died of pneumonia. According to information received, the sentence against the journalist was executed even though no evidence was presented in the case that the journalist had used information irresponsibly.

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<sup>175</sup> Panamanian daily newspaper *Panamá América*, February 21, 2001.

<sup>176</sup> *La Prensa* Corporation, March 22, 2001.

<sup>177</sup> *Id.* March 23, 2001.

**f. Nicaragua**

140. The Special Rapporteur notes with extreme concern the new Professional Association of Journalists Act, which contravenes the American Convention on Human Rights. On December 13, 2000, the National Assembly approved the new Professional Association of Journalists Act, which states that journalists must be entered in the journalism professionals' register, to be managed by the Association. It also establishes that only persons holding journalism licenses and those having 10 or more years of experience in the profession will be recognized as journalists. The law also adds that individuals working in the field who do not meet these criteria shall be prosecuted by the courts and punished with criminal sanctions.

141. The Special Rapporteur reminds the Government of Nicaragua that the IACHR has declared this type of requirement for practicing the profession of journalism to be restrictive to freedom of expression and contrary to the American Convention. As such, that law contravenes Principle 6 of the Declaration of Principles on Freedom of Expression.

On this matter the Inter-American Court stated

The professional journalist is not, nor can he be, anything but someone who has decided to exercise freedom of expression in a continuous, regular and paid manner. As a result, compulsory licensing cannot be invoked in the case of journalism because they would have the effect of permanently depriving those who are not members of the right to make full use of the rights that article 13 of the Convention grants to each individual. Hence, it would violate the basic principles of a democratic public order on which the Convention itself is based<sup>178</sup>

142. Lastly, the Special Rapporteur notes that when the American Convention proclaims that freedom of expression and thought includes the right to express information and ideas through any medium, it is underlining the fact that the expression and the diffusion of ideas are indivisible. Therefore, a restriction of the possible means of diffusion represents a restriction of the right of freedom of expression.

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<sup>178</sup> CIDH, OC 5-85, *Supra* note 15, para. 74-76.

**g. Honduras<sup>179</sup>**

143. According to the information received by the Special Rapporteur, the practice of journalism in Honduras faces a number of limitations that could inhibit freedom of expression. The Office of the Special Rapporteur has learned that social communicators are suffering from judicial persecution, threats and aggression as a result of the exercise of their profession. Additionally, legislation exists that violates Article 13 of the American Convention on Human Rights and contradicts that which is established in the Declaration of Principles on Freedom of Expression and which should be modified in order to bring it into compliance with international standards.

144. In 2000, journalist Leonarda Andino, from the daily newspaper *El Herald*, was summoned to appear in criminal court to answer charges concerning a report on the situation of the justice system in Honduras, based on a preliminary report by the National Human Rights Commissioner, Leo Valladares. The court threatened to sue her for defamation and slander of judges and magistrates.

145. In 2000, Journalists Renato Alvarez and Roxana Guevara, Press Director of *Channel 63*, and Press Director of *Vica Noticias*, respectively, were summoned to appear before the Public Prosecutor for having reported to the *Inter-American Press Association* (IAPA), violations of freedom of expression by the government. Shortly thereafter, Roxana Guevara was harassed until she was forced to resign from her job. The journalist had published a caricature by Allan McDonald, calling attention to the fact that surveys carried out by the government showed that the Honduran Head of State was more popular than the Pope John Paul II. According to information received, the major shareholders of the network were threatened that it would be shut down—using the pretext of the debt of several million it owed to the national electricity company—if it did not force the journalist to resign.

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<sup>179</sup> The information presented below was received by this Rapporteur from the Committee of Relatives of Missing Detainees in Honduras (COFADEH), the Citizens' Forum, and the Honduras Documentation Center.

146. In 1999 and early 2000, two human rights agencies—COFADEH and CODEH—reported that the *Centro Conjunto de Informaciones* (Joint Information Center) (COIN) was functioning as a center for electronic espionage targeting the press, the opposition, government officials and businessmen, for intelligence purposes.

147. According to information provided by the two human rights agencies, if a criticism by a journalist is considered serious, the President calls the owners of the media and sends them the transcript of the content of radio and television programs or newspaper clippings. The content profiles are sent as a warning to the media owners of “transgressions” by journalists of the policy of not criticizing the government.

148. On April 26, 2000, journalist Julio César Pineda, news coordinator for *Radio Progreso* in the locality of Yoro, was the victim of a criminal attack. According to information received, Pineda was wounded by a bullet in an attack that occurred in front of his home in San Pedro Sula. Months earlier, as a member of a local human rights commission, Pineda had investigated issues related to labor unions, migration and medical negligence in public hospitals.

### **Laws Limiting the Practice of the Journalistic Profession**

#### **a. Compulsory Membership in the College of Journalists**

149. Honduras has had the Honduran College of Journalists since 1979. According to information received by this Rapporteur, the College of Journalists has become an organization that restricts freedom of expression and limits the free practice of journalism. This labor association is responsible for seeing that non-member journalists are fired.

150. The Honduran Criminal Code provides for jail terms for the illegal practice of journalism. Furthermore, the Law of the College of Journalists stipulates fines for news organizations that hire journalists not licensed by the College.

#### **b. Desacato and Libel and Slander**

151. Other legal restrictions on the practice of freedom of expression in Honduras are found in Article 345 of the Penal Code, which provides for jail sentences for journalists who denigrate the image of the President and government officials:

Any person who threatens, libels, slanders, insults, or in any other way attacks the character of a public official in the exercise of his or her functions, by act, word, or in writing, shall be sentenced to two to four years in prison. If the offended party is the President of the Republic or one of the senior officials mentioned in Article 325, above, the sentence shall be three to six years.

## **5. Information received concerning the countries in the hemisphere during 2000**

152. The information presented in this section was received by this office during the year 2000. In some cases, this information was sent directly by the victims of violations of freedom of expression. In others, it was sent by prestigious international and national organizations that work in the defense of freedom of expression and human rights in general.

### **Argentina**

153. On January 4, 2000, the Minister of Security of Buenos Aires province, Aldo Rico, threatened and insulted a group of media photographers who were covering his visit to Pinamar. Angered by the presence of the photographers, the official accused them of printing “lies and hypocrisy” and threatened to send the police “to chase them.” A few days later, he publicly apologized.<sup>180</sup>

154. According to information received in the office of IAPA in Salta province, on January 6, 2000, the commander of the Infantry Corps of the Santiago del Estero police, Major Daniel del Castillo, called a group of journalists “hoodlums” and attempted to punch a

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<sup>180</sup> *Periodistas.*

photographer covering the courts when the police were testifying in a case involving blackmail and bribery. Last year, the same officer had physically and verbally assaulted three journalists, but the case was never investigated.<sup>181</sup>

155. On January 18, 2000, the Press Syndicate of Santa Cruz province complained of a series of measures taken by the Provincial Secretary of Security, Néstor Peña, which restricted free access to information. Peña gave express orders to all the police chiefs of the province not to give information of any sort to the media, under threat of penalties. Journalists in Santa Cruz province alleged that the Security Department had instituted measures that limit freedom of expression and journalists right to inform. The provision violates Law 120.808, which guarantees “free access to all sources of information of public interest and open access to all offices of the provincial or municipal government.”

156. On March 29, 2000, the journalist Luis Giménez of the *Telam* news agency was informed that two unknown individuals had been staking out his home and taking pictures of his car license plate and the front of his house. The next day, the journalist received a telephone threat from a person who said he was from SIDE and warned him: “You’re going to be another Cabezas,” a reference to the news photographer José Luis Cabezas, who was assassinated in 1997. Giménez said he had received telephone threats before.<sup>182</sup>

157. On March 29, 2000, unidentified persons fired on the house of Bernardo García Hamilton, a member of the board of directors of the newspaper *La Gaceta de Tucumán*, in the province of the same name. The family was asleep at the time of the attack. The business executive says the attack occurred because *La Gaceta* had uncovered cases of corruption.<sup>183</sup>

158. On April 29, 2000, journalist Maria Julia Oliván of the *D Day* program and *Veintidós (22)* magazine was insulted by Monsignor Emilio Ogñenovich, archbishop of Mercedes-Luján, who also condoned physical aggression by one of his staff. The event occurred as they were leaving a mass, when the reporter asked the archbishop about legal

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<sup>181</sup> IAPA.

<sup>182</sup> International Federation of Journalists.

<sup>183</sup> *Periodistas*.

complaints filed regarding the situation of a children's home that was under the aegis of the archdiocese. In front of the television cameras, Ogñenovich accused the reporter of belonging to the "gang" and called her a "tramp." Before he left, he asked one of his aides to get the reporter's name, and she was later physically assaulted by one of them.<sup>184</sup>

159. On May 17, 2000, Monsignor Julio Forchi, in the community of Mercedes, Buenos Aires province, said that some journalists needed a lobotomy "to see if they would calm down a bit and respect their neighbor." The expression was reflected in a column in the newspaper *El Oeste* of that community, in reaction to investigative reporting that revealed that in a children's home belonging to the diocese, the residents were living in deplorable conditions.<sup>185</sup>

160. On May 28, 2000, a group of armed individuals attacked distribution centers for the newspaper *La Gaceta* in Tucumán province. The assailants broke down the doors, seized copies of the paper, and burned them in the street. The attack is presumed to be a result of the newspapers conflicts with union of newspaper and magazine vendors. As a result of the attack, people were injured, vehicles were damaged, there were threats against employees and the sale of national newspapers was interrupted.<sup>186</sup>

161. In June of 2000, the governor of Santiago del Estero province, Carlos Juárez, banned the showing of the work *El Cartero de Neruda (The Mailman of Neruda)* in the May 25<sup>th</sup> Provincial Theater because it contained erotic scenes. The Rapporteur sent a letter to the governor expressing concern for this act of censorship.

162. Beginning in July 2000, there were reports from various organizations that defend press freedom<sup>187</sup> expressing concern over repeated allegations by the newspaper *El*

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<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> IAPA.

<sup>187</sup> See press releases of Adepa, IAPA, *Periodistas*.



*Liberal* of Santiago del Estero province that it was the target of anonymous threats, tapping of its telephone lines and distribution of inflammatory pamphlets against its reporters. The events were linked to recent investigative reporting of irregularities on the part of the provincial government in bids on and allocation of housing. The threats and warnings were repeated on August 1, 2000, this time also against the newspaper *La Voz del Interior* of Cordoba province. The editorial office of this newspaper received an anonymous telephone call that referred to the presence of a correspondent of *La Voz del Interior* in Santiago del Estero and threatened his life. Previously, a distributor of the Cordoba newspaper had been threatened by an anonymous person who warned him that the newspaper would be torched if it continued publishing stories that displeased "Tata" (Governor Carlos Juárez). The newspaper had criticized the activities and dealings of Governor Juárez.

163. On August 28, 2000, Jorge Larrosa, a photographer of the newspaper *Página 12*, received telephone threats. The journalist attributed the threats to a reprisal for his photographs that had implicated police in a bank robbery that occurred in September 1999. On November 14, 2000, Oscar Angel Flores, news editor of *Radio Dimensión* of San Luis and correspondent of the newspaper *Clarín* of Buenos Aires, and Mario Otero, host of radio programs on *FM Radio Universidad San Luis*, both in San Luis province, contacted the Rapporteur to report that an advisor of Governor Adolfo Rodríguez Saá, Eduardo Anibal Endeiza, was upset because of the broadcast of an investigative report on corruption, and threatened both journalists. The journalist reported that this was one more element in a series of threats and harassment from local authorities.

164. On November 28, 2000, Eduardo Delbono, owner and journalist of the *Merlo City* radio station, alleged that two unidentified individuals threatened his life. The journalist reported that he had received the threat while driving his car and that the person who threatened him was armed. The journalist attributed the threat to the station's refusal to honor a request from the city that it not air calls from some listeners who criticized the Merlo City government. He also said that the city at one time wanted to take down its transmitter tower on the pretext that it lacked a proper permit.

## **Bolivia**

165. The Rapporteur now presents information received on harassment of various media in the context of the state of siege decreed by the government on April 8, 2000. The measure was decreed in reaction to a social protest movement begun by peasant associations and student groups.<sup>188</sup>

166. On March 17, 2000, Ximena Vásquez, a photographer for the newspaper *Presencia*, was assaulted by police while covering a strike in the city of La Paz.

167. On April 10, 2000, Oswaldo Rioja, a reporter for the television channel *PAT-Channel 39* of Cochabamba, was threatened. The channel had aired scenes of repression of demonstrators by the army in Cochabamba. In addition, radio stations *Chaka*, *Radio Ondas del Titicaca*, and *Radio Omazuyos* of Achacachi were occupied by the army.

168. On April 13, 2000, the editorial offices of the newspaper *Presencia* received a telephoned bomb threat. News editor Gloria Eyzaguirre and reporter Jaime Buitrago of the newspaper received death threats. Previously, the newspaper had published information about illegal gambling halls and drug trafficking linked to some people in power.

169. On June 11, 2000, journalist Roland Méndez Alpire was wounded in one leg when he left the house of deputy Roberto Landivar, in the city of Santa Cruz. Méndez Alpire has undertaken several investigations of corruption and drug trafficking.<sup>189</sup>

## **Brazil**

170. On January 3, 2000, the Syndicate of Professional Journalists of Rio de Janeiro reported aggression against news photographers Fernando Bizerra of the *Jornal do Brasil*, Edivaldo Ferreira, José Paulo Lacerda, and Rosa Costa of the *Estado* news agency, and Sheila Chyagas, who works for the *Abril* publishing house. The journalists were brutally

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<sup>188</sup> Reporters without Borders.

<sup>189</sup> IAPA.

attacked by soldiers of the military police while they were covering the year-end celebration at Copacabana Fort. The soldiers also threatened to kill Bizerra.<sup>190</sup>

171. On February 23, 2000, reporter Erick Guimaraes, photographer Marco Studart and his driver Valdir Gomez Soares, of the newspaper *O Povo* in the city of Fortaleza were arrested while they investigated reports of corruption in the municipal government.<sup>191</sup>

172. In March of 2000, Almir Carvalho, publisher of the newspaper *A Palavra*, had his life threatened by the mayor of Alegre, Gilvan Dutra, for publishing an article.<sup>192</sup>

173. In April of 2000, journalist Claudia Bastos, of *TV Tapajós*, had her life threatened several times. Unidentified individuals broke into her house to search her belongings. The journalist had reported on the alleged involvement of officials, business executives and politicians of the city of Itaituba in drug and weapons trafficking.<sup>193</sup>

174. In July of 2000, Judge Adair Longhini prohibited newspapers and radio and television stations from releasing any news about the local elections, arguing that it could be interpreted as electioneering.<sup>194</sup>

## Canada

175. On May 1, 2000, freelance photographer Valerie Remise and Andrew Dobrowolskyj and Yves Schaeffner of the Montreal weekly *Ici* were detained while covering a demonstration in Montreal. The photographers were released the following morning and charges were filed against them for “illegal gathering, damages and disturbing the public order.”

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<sup>190</sup> International Federation of Journalists.

<sup>191</sup> WAN.

<sup>192</sup> International Federation of Journalists.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

176. On June 15 2000, Toronto police seized news film and videotapes from 14 Canadian media organizations. The films and videotapes contained shots of the anti-poverty protest that took place on the same day at Queen's Park (the Ontario Legislature). On November 1, 2000, the Supreme Court of Justice in Toronto rejected an appeal for the rescinding of the search warrant for the films and videotapes on the basis of an infringement of the constitutional rights of the media.

177. The Special Rapporteur expresses concern over reports received about seizure of press footage for investigations. Journalists must not be made to perceive themselves as acting as agents of the police in newsgathering. Such a perception interferes with their role as independent sources of information on affairs of public concern.

### **Costa Rica**

178. In March of 2001, according to information received, the Third Chamber of the Supreme Court affirmed the criminal penalty for alleged "moral damage" against the journalist Mauricio Herrera Ulloa, imposing a penalty upon him of 120 days' fine and the registration of his name in a judicial criminal register, for having reported information published in the European media that raised questions about the former Costa Rican Ambassador to the Atomic Energy Commission, Felix Przedborski. In addition, the Special Rapporteur received information about a judicial prohibition against the newspaper *La Nación* to "remove the existing link on the Internet in *La Nación Digital*, between the last name Przedborski and the articles complained of, as well as to establish a link between these articles and the dispositive part of this sentence, which is ordered to be published." *La Nación* was also ordered to pay the legal fees of the plaintiff's attorney.

### **Ecuador**

179. In the context of the institutional crisis experienced in Ecuador at the beginning of 2000, the Rapporteur received the following information:

180. On February 16, 2000, Rafael Costa, editor of the television news program *Telecentro* received a letter bomb in his office. According to the information received, the bomb exploded when an envelope containing a videocassette was opened. The letter had been mailed from Cuenca, capital of Azuay province. Journalists Andrés Carrión and Gonzalo Ortiz Crespo also received threats.

181. The Special Rapporteur expresses his concern over recent initiatives taken in the Congress to limit freedom of expression. On April 20, 2000, a Congressional resolution blocked media access to the legislative chamber for coverage of the regular session. Furthermore, President of Congress Juan José Pons ordered a review of the employment contracts of some journalists who are advisors to deputies and who took part in a protest against the resolution.

### **United States**

182. On March 25, 2000, Errol Maitland, a journalist for the radio station *WBAI* and technical director of the program *Democracy Now* of *Radio Pacifica*, was attacked by New York City Police Officers while covering the funeral of Haitian-American Patrick Dorismond, who was shot by New York Police on March 16, 2000. At the time of the incident, Maitland was transmitting directly through his cellular phone and upon seeing the police force a woman to the ground, he drew closer and identified himself, in order to request a commentary on this incident. Maitland told CPJ that four police officers grabbed him and threw him to the ground. Maitland was detained for disobedience of an authority. According to information received, Maitland was suffering from breathing difficulties and was taken to the hospital, where he was kept handcuffed to the bed until March 27.

183. In October 2000, the United States Congress passed the Intelligence Authorization Act, which included provisions that would impose criminal sanctions on government officials for any unauthorized disclosure of classified information. The broad definition of what constitutes “classified” information would have made this law extremely damaging to the free flow of information about governmental activities, by discouraging government officials from speaking to the press for fear of possible sanctions. The Special Rapporteur expressed his concern about this measure to then-Secretary of State Madeline

Albright in a letter of November 2, 2000. Former President Bill Clinton later vetoed the legislation.

## Haiti

184. On April 3, 2000, the editorial offices of *Radio Vision 2000* received several telephone calls threatening the station's installations. On that same day, the residence of Daly Valet, news director of *Radio Vision 2000* and co-host of the program *Vision 2000 a l'ecoute* was shot at.<sup>195</sup> According to information received by the Office, the journalists on this program, Daly Valet and Donald Jean had to go into exile in Canada after receiving numerous threats because of their criticism of the government of Jean Bertrand Aristide and of the political party Famille Lavalas (FL).<sup>196</sup>

185. On April 3, 2000, the offices of *Radio Unité*, a community station in the city of Saint-Michel de L'Attalaye, was looted by unidentified persons.

186. On April 5, 2000, employees of the radio station *Echo 2000* in Petit Goavem denounced that an armed group entered the station and threatened to burn it if the station would not stop its broadcasts.<sup>197</sup>

187. On May 3, 2000, the offices of the community radio station *Voix des Paysans du Sud*, in Cavaillon-Pliché, were looted.<sup>198</sup>

188. On September 5, 2000, Haiti's *National Public Television Channel* was the target of a bomb that caused considerable damage.<sup>199</sup>

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<sup>195</sup> RSF.

<sup>196</sup> Committee to Protect Journalists (CPJ).

<sup>197</sup> *Id.*

<sup>198</sup> Reporters without Borders (RSF).

<sup>199</sup> *Id.*

189. After the presidential elections on November 26, 2000, there was a considerable increase in the threats against media reporting doubts about the legitimacy of the presidential elections. According to the information received by the Office of the Special Rapporteur, several radio stations were threatened after commenting on the small number of participants in the presidential elections. The private radio station *Radio Galaxie* received numerous phone calls asking it to increase its estimates of the number of votes. *Radio Galaxie* suspended its transmissions while the elections were taking place and restarted its activities four days later. It was acknowledged that, after the presidential elections, about six media stations received threatening phone calls because of their criticism of the government and the political party of Aristide.<sup>200</sup>

190. In January of 2001, radio *Caraibes FM*, radio *Kiskeya* and radio *Rotation FM* received threatening phone calls. According to the information received by the Office of the Special Rapporteur, on December 23 of 2000, radio *Caraibes* had to suspend its activities for three weeks after receiving daily phone calls from groups close to the FL party asking the radio station to cease its activities. The phone calls were received after a weekly political news program called *Ranmase*, during which members of an opposition group criticized the government and questioned the legitimacy of the November 26 elections.<sup>201</sup> Moreover, Carlos Sainristil, programming director of this radio station, informed that he and other journalists had received threatening phone calls before. Amos Duboirant, director of radio *Rotation FM*, in the town of Lascahobas in the center of Haiti, declared, on December 28 of 2000, that his station received threatening phone calls and intimidation's after denouncing health problems in the city.<sup>202</sup>

191. On January 9 of 2001, during a press conference, leaders of organizations close to the FL party of Aristide threatened the journalist Liliane Pierre-Haul, program director and co-owner of radio *Kiskeya*, and the editor of the newspaper *Le Nouvelliste*, Max Chauvet to death in public. According to the information received, these organizations have a list of 100 important people, including these two journalists, who were identified as opponents of the

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<sup>200</sup> CPJ.

<sup>201</sup> *Id.*

<sup>202</sup> RSF.

current government. Moreover, it was reported that after the press conference on January the 9<sup>th</sup>, unidentified persons threw a gas container in the yard of radio *Kiskeya*.<sup>203</sup>

## **Mexico**

192. In March of 2000, the Mexican Migration Institute (IMM) denied a visa to reporter Helene Poux, an Austrian national employed by the magazine *Suedwind*. According to the information received, the IMM claimed that the decision was made on the grounds that the journalist had undertaken unauthorized activities during a previous visit to the country. On those occasions, the reporter covered activities of the International Civil Commission for Observation of Human Rights (CCIODH) in Chiapas state. The reporter's work was in keeping with the visa she had been given to cover the CCIODH and do investigative reporting on the human rights situation in the area.<sup>204</sup>

193. In June and July of 2000, journalist Freddy Secundino Sánchez of the weekly *Epoca* was victim of harassment and intimidation. On July 15, he reported to the Mexican Commission for Defense and Promotion of Human Rights that he was physically attacked by two persons posing as judicial police. They held him captive in a taxi for more than two hours before they released him. Days later, his life was threatened in a telephone call. The Complaint Program of the Commission asked the Rapporteur to assist in ensuring respect for the journalist's physical and emotional integrity.<sup>205</sup> The Commission requested information from the Mexican government, which, in its reply on August 3, stated that the journalist was under the protection of the authorities.

194. On June 22, 2000, journalist Lilly Téllez of *Aztec Television* and three other people were victims of an attack when unidentified persons fired on the car in which they were traveling. The journalist escaped unharmed from the attack, which occurred in Mexico City, but

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<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> Mexican Commission for the Defense and Promotion of Human Rights, D.F., Mexico.



the driver and two of her bodyguards were wounded. The attack was believed to have been motivated by her investigative reporting.<sup>206</sup>

195. On August 15, 2000, journalist Ricardo Alemán, an employee of the daily *El Universal* of Mexico City and the *Radio 13* broadcast station, was the victim of an attack when unknown individuals fired on his office from a nearby building. The bullets caused physical damage to the office. The attack was believed to be in reprisal for his reporting.<sup>207</sup>

196. On September 19, 2000, journalist Antonio Pinedo Cornejo, editor of the magazine *Seminario* of Ciudad Juárez, was arrested on charges of libel. The journalist was arrested after the commissioner of public security, Javier Benavídez González, had filed a complaint against him because of the content of an article published in the weekly. Journalist Luis Villanagra was also accused of the same crime. Days later, the former police chief withdrew the criminal libel complaint against the journalists.<sup>208</sup>

## Paraguay

197. The Special Rapporteur expresses his concern about the information received by the office that several social communicators could have been directly affected by the climate of political instability in this country during the attempted *coup d' état* of May 18, 2000 against the constitutional and democratic stability of Paraguay and other later attacks. Among the information received, the following is highlighted<sup>209</sup>:

198. On May 18, 2000, six armed men dressed as military members entered the installations of *Radio Cardinal* and the television studios of *Canal 13* by force. They left after being reprimanded by the journalists. Two of the perpetrators were detained. Also, approximately six armed men dressed as military members entered the installations of Radio

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<sup>206</sup> Inter-American Press Association and Reporters without Borders

<sup>207</sup> Reporters without Borders.

<sup>208</sup> Inter-American Press Association.

<sup>209</sup> This information has been provided primarily by the Sindicato de Periodistas del Paraguay, a member organization of IFEX and the Inter-American Press Association.

9.70 AM by force and ordered the station, under threats, to broadcast revolutionary propaganda.

199. On May 19, 2000, unknown persons entered the station *Ybyturuzú*, Villarica, and destroyed its transmission equipment. The same day, Miguel Fernández and Adriana Fernández, the owners of *Radio Asunción*, were detained by members of the security forces, who destroyed all the transmission equipment. Both social communicators were accused of defending the Ex-General Lino Oviedo.

200. On May 20, 2000, President González Machi signed a decree ordering the arrest of Hugo Ruiz Olazar, a reporter of the daily *ABC Color* and correspondent of *Agence France Presse* and the Argentine daily *Clarín*, on charges of participating in an attempted coup in May of 2000. Violating articles of the Constitution and contemporary social standards. The journalist remained in hiding for several days in the editorial offices of *ABC Color* for his physical safety. According to the information received, the accusations against the journalist were considered as an attempt to end his journalistic labor in the various media which he was working. At a news conference, Government minister Walter Bower stated that the journalist was accused of violating the Constitution and contemporary social standards, and that the charges against Ruiz Olazar included not only a attempted coup but also "a series of acts and activities."<sup>210</sup>

201. In August of 2000, amidst a climate of post-electoral uncertainty regarding the outcome of the elections for the vice presidency of Paraguay, various threats were directed at the media and journalists:

202. On August 13, 2000, *Radio Primero de Marzo*, in Asunción, received several threatening phone calls about a possible attack. On August 15<sup>th</sup> of 2000, *Radio Ñiandutí*, in Asunción, was attacked by groups linked to the Partido Colorado because they did not agree with the electoral results that the radio station was transmitting. Also, journalists that belong to the *Tribunal Superior de Justicia Electoral* (Superior Electoral Tribunal) were verbally attacked by Juan Carlos Galaverna, a senator of Partido Colorado, while he was interviewed on the counting of the votes.

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<sup>210</sup> Reporters without Borders.

203. On August 17, 2000, Elizabeth Palma, a reporter for *Channel 9*, was struck by the car of Daniel Fretes Ventre, former national comptroller, when she tried to film him.

204. On August 19, 2000, the home of journalist Marlene Franco, of the newspaper *Diario Noticias*, was struck by five bullets after she received telephone death threats. On August 18 and 20, 2000, the newspaper's office in Asunción received several anonymous bomb threats by telephone.<sup>211</sup>

205. On August 21, 2000, César Olmedo, a photojournalist for the daily *La Nación*, was attacked and his photographic camera destroyed for a policeman that was trying to deactivate a bomb.

206. On August 25, 2000, Camilo Cantero, director of *Radio Libertad* in San Ignacio city, Misiones, and correspondent of the daily *Ultima Hora*, was detained because of charges against him for "false denunciation" and imprisoned for six days. This process started after the journalist denounced a judge because of questionable acts as a judge. The journalist's attorneys sought substitute measures. As a consequence, on August 31, 2000, Judge Juan Carlos Paredes forbid the journalist to talk and write through the media about the judicial process against him. This restriction was imposed by Judge Paredes as a substitute measure for the imprisonment, of which the journalist had already fulfilled six days.<sup>212</sup>

207. On August 28, 2000, Aldo Zucolillo, director of *Diario ABC Color*, testified before a criminal court judge, who ordered him not to leave the country. This judicial process began when electoral prosecutors accused the paper of publishing "electoral propaganda" outside of the time period authorized by law. *Diario ABC Color* published two editorials in support to one of the vice-presidential candidates in the August 13<sup>th</sup> elections. The electoral prosecutors considered that these two editorials were "electoral propaganda."

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<sup>211</sup> *Sindicato de Periodistas del Paraguay* (SPP), (Paraguayan Press Union).

<sup>212</sup> *Id.*

208. On October 3, 2000, Omar Jara, correspondent for *La Nación News*, in San José de los Arroyos, 100 kilometers east of Asunción, declared that he was subjected to threats and was verbally attacked by two transit agents because he had accused these transit agents of accepting bribes from drivers in order to avoid receiving citations for moving violations.

209. On October 5, 2000, the Court of Appeals confirmed a lower court judgment that ordered journalist Héctor Guerin, of *Diario Local Vanguardia*, to pay a fine of 285 jornales (US\$1,650) because of an action initiated by the governor of Alto Paraná, Jotvino Urunuaga, for defamation, libel and slander. This lawsuit arose out of publications by the newspaper about apparent administrative irregularities in the government, based on reports from the Contraloría General de la República (Office of the Comptroller General of the Republic) and declarations of departmental authorities.

210. According to information received, on December 19, 2000, Mauri Konig, correspondent of the *Diario Brasileño*, was tortured by three people presumably linked to the police force, when he was doing investigative reporting at the San Alberto police station in connection with forced recruitment of Brazilian teens by Paraguayan police.<sup>213</sup>

211. April 26, 2000 marked the ninth anniversary of the assassination of journalist Santiago Leguizamón, editor of *Radio Maburucuya*. The Paraguayan Press Union and Reporters without Borders asked the Paraguayan government to pursue the police investigation of the case and punish those who ordered and carried out the homicide.<sup>214</sup>

## Peru

212. All of the events described below correspond to information received by the Office of the Special Rapporteur during the year 2000, before Alberto Fujimori renounced the presidency and when a climate of intimidation and judicial persecution against independent journalism existed.

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<sup>213</sup> International Federation of Journalists.

<sup>214</sup> Paraguayan Press Union (SPP).

## Kidnappings

213. In January of 2000 Angel Rojas Montero, a former cameraman for the suspended program *Hildebrandt en Enlace Global* (Hildebrandt Around the Globe), was kidnapped for 30 minutes in the district of La Perla, in Callao province. During his detention, he received death threats from an unidentified individual who aimed a pistol at him and shouted that he would be killed because he was a “tattletale journalist.”<sup>215</sup>

214. On March 1, 2000, Ana Maria Tejada Purizaca, a reporter for the daily *La República*, was kidnapped for half an hour and her notes were ransacked. According to the information received, the suspected responsible party for the aggression (which occurred in the city of Tacna) was Walter Chipoco Espinoza, who headed the election campaign of candidate Carmen Lozada de Gamboa.<sup>216</sup>

## Intimidation

215. In January of 2000, the defamatory pamphlet called *Repudio* (Repudiation) reappeared in the kiosks after having been out of circulation for nearly three months. As in prior issues, it insulted the congressman and editor of the daily *La República*, Gustavo Mohme Llona. According to information received, the 12-page tabloid continued in the sensationalist style that has characterized it since its inception, this time devoting nine full pages, including the cover and pictures, to damaging the political and personal image of Gustavo Mohme<sup>217</sup>, who opposed the government of Alberto Fujimori.<sup>218</sup>

216. On February 29, 2000, Alberto Enrique Piñado, a journalist for *Radio Galaxia* in Bagua Grande, Amazonas department, reported that on February 17, plainclothes individuals who identified themselves as members of the Public Relations Office of the “*Las Brisas*” section of the city appeared at several radio and television stations asking for information about their

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<sup>215</sup> Press and Society Institute (IPYS).

<sup>216</sup> International Federation of Journalists.

<sup>217</sup> Journalist Gustavo Mohme Llona, director of *La Republica* newspaper died on April 23, 2000.

<sup>218</sup> IPYS.

staff and the names and times of programs. While the radio station refused to provide any information, the television station supplied it. This gave military personnel the opportunity to ask about the political history and personal and professional connections of the then candidate for congress for Amazonas Donald Mejía Yoplac of the Somos Peru party.<sup>219</sup>

217. In March of 2000 journalist Alberto Ramos Romero, news director of *Radio Ancash* in Huaraz, was forced to resign by the owners of the station because of criticism he had aired on March 26, 2000, against the government of President Alberto Fujimori and the activities of ruling party congresswoman Maria Espinoza Mattos and other officials. Ramos alleges that the pressure began months earlier, and became more acute. In the first two weeks of March a similar fate befell journalists Robin Hood Ipanaque of *Radio Vision Alegria*, Edgar Palma Huerta, publisher of the bi-weekly *La Jornada*, and Gerardo Rocha Chocos, news director of *Radio Huascartin*.<sup>220</sup>

218. On April 3, 2000, unidentified individuals attempted to shoot at Hernán Carrión, a journalist from *Radio Ancash*, in the port of Chimbote. The journalist had been receiving telephone threats and his news program was suspended as a result of its critical coverage of the Fujimori government. On April 18, 2000, then President Fujimori visited Chimbote as part of his presidential election campaign. Mobile units of *Radio Ancash* conducted an opinion poll in the city. The results of the survey indicated widespread discontent with the government because of the high unemployment rate and political repression. Journalist Hernán Carrión de la Cruz alleged that this coverage prompted the Internal Revenue Service (SUNAT) to notify the owner of *Radio Ancash*, Dante Moreno, that the station would have to file its tax return within three days or else be fined 150,000 sols (about US\$45,000), despite the fact that the station had already paid its taxes. Later, Moreno directed journalist Hernán Carrión to “take a week off” because it was his fault that the station was going to have to pay the fine. On May 25, 2000, Moreno cancelled the radio program on the grounds that he was worried about the journalist’s safety.<sup>221</sup>

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<sup>219</sup> *Id.*

<sup>220</sup> International Federation of Journalists/IFEX.

<sup>221</sup> CPJ.

219. On April 8, 2000, the daily *Liberación* reported in its pages a new form of harassment, this time presumably perpetrated by the electric energy company that supplies power to the northern zone of Lima, Edelnor. According to the newspaper, a few minutes before the presses of LEA S.A. (which prints the paper) began to roll, an extremely high voltage surge of electricity damaged the control panel for the press, causing an immediate halt to the work. When Fernando Viaña, a stockholder of the paper, complained, four repair technicians from Edelnor showed up at the pressroom. They confirmed that Edelnor had interrupted one of the service circuits. Service was swiftly restored. Because of this incident, the newspaper *Liberación* was late in coming out and the press run was incomplete.<sup>222</sup>

220. On April 7, 2000, Peria Diana Villanueva Pérez, a journalist of *Channel N* in Trujillo, requested protection for her life and the life of her family from the deputy mayor of the province, Sergio Sánchez. The journalist alleged that unidentified individuals had been staking out her house and trailing her and her sister very closely. Villanueva Pérez also said that while she was going about her reporting duties, unidentified persons took pictures of her. She expressed fear for the life of her family members.<sup>223</sup>

221. On April 24, 2000, journalist Alberto Pintado Villaverde of the radio station *Galaxia Stereo* in Bagua Grande province, Amazonas department, alleged that he was the victim of manipulation by the departmental coordinator of Peru 2000, Milecio Vallejos Bravo. According to the information received, Vallejos Bravo attempted to bribe the station by offering money to its news director, Carlos Flores Borja, to air a letter against then- presidential candidate Alejandro Toledo and to change the news orientation of the program. Alberto Pintado mentions in his report, by way of background, that two days before the election of April 9, 2000, Flores Borja was threatened to stop sending reports to *Radio Marahón* de Jaén by a person who presented an identification card from that station. Upon checking, it was discovered that the individual did not in fact work for the station.<sup>224</sup>

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<sup>222</sup> IPYS.

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

222. On May 22, 2000, the Press and Society Institute told the Rapporteur that it had been experiencing systematic blocking of its e-mail system since March. This problem made it impossible to send and receive the alerts that it transmitted daily from its offices. The organization said that there was apparently a selective blocking, because all of the alerts sent to the International Freedom of Expression Exchange (IFEX) network were stopped while other types of information sent to other e-mail addresses did not usually have any problem.<sup>225</sup>

223. On May 29, 2000, journalist Leddy Mozombite Linares, host of the program *Soncco warmi (A Woman's Heart)* on *Radio Santa Rosa*, was stopped by four unknown individuals who physically attacked her. The incident occurred precisely when she was on the way to the broadcast studios. Mozombite alleged that the unidentified assailants caught her by surprise from behind and held her arms while they tried to strip her. Witnesses who were in the area came to her aid. However, before one of the attackers fled he threatened to kill her. The journalist is also a leader at the Training Center for Household Workers. The president of that institution and director of the program, Adelinda Diaz Uriarte, has said in the daily *La República* that the incident is but one of several examples of harassment which have beset them since February of 2000, as a result of criticism of the government on the radio program. Diaz added that the assault and the threats are also due to her organization's refusal to cooperate in the presidential electoral campaign of then-candidate Alberto Fujimori. Agents of the government offered them computers and the placement of their program on a station with a larger audience. In view of the incidents, journalist Mozombite went to the Office of the Human Rights Ombudsman to seek protection for her life.<sup>226</sup>

224. On July 28, 2000, Paul Vanotti, a reporter for the *Public Media Center* agency, was struck by a tear gas grenade in his right eye during a street demonstration called "La Marcha de los Cuatro Suyos." Vanotti was accompanying U.S. journalist Lizabeth Hasse when the incident occurred. She and Vanotti had been working for several weeks on an investigative report on the situation of democracy in Peru for *The Nation Magazine*, edited in New York City.<sup>227</sup>

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<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*



225. On August 14, 2000, Alexander Carbajal Soto, director of the news program *Centinela: Testigo de la Noticia* (*Sentinel: Eyewitness News*) was the victim of an attack by two persons passing in a station wagon. Besides wounding him, the attackers threatened to kill him. The journalist's program had uncovered the case of a professor at a local university who was questioned because of committing "negative acts" against certain students, and violence against a person in May of 1999 that resulted in the death of the individual. In addition, the journalist said that on the day he was attacked, his program denounced irregularities in the Regional Labor Office.<sup>228</sup>

226. At the end of August of 2000, journalist Cecilia Valenzuela, director of the news agency *imediaperu.com* was the victim of harassment for the publication of a series of articles that questioned the role of the National Intelligence Service (SIN) in a case involving arms and drug trafficking. For several days, a station wagon was parked outside the agency office and on September 4, a car attempted to run her over in front of her house. Valenzuela had been the target of a smear campaign by a sector of the Peruvian media known as "prensa chicha."<sup>229</sup>

227. On September 26, 2000, Johnny Pezo, host of the radio program *La Revista del Mazaterillo* on *Radio Panamericana*, in the city of Yurimaguas, alleged that he was the victim of harassment and intimidation by the Peruvian National Police (PNP) after reporting details of a drug bust during a police operation on his program.<sup>230</sup>

228. Since August of 2000 Marilu Cambini Lostanau, correspondent of the daily *Liberación* in the city of Chimbote, alleges that she has been the victim of harassment by presumed agents of the Peruvian National Police (PNP) and the National Intelligence Service (SIN). According to information received, the journalist had investigated and revealed irregularities in those two agencies. The journalist says that because of her investigations she was denied access to various police installations on the pretext that they were restricted areas. On September 6, after receiving repeated telephone threats, she came to a local government

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<sup>228</sup> *Id.*

<sup>229</sup> Reporters without Borders.

<sup>230</sup> IPYS.

office to seek guarantees for her safety and that of her children. In her request, she said that people had an interest in silencing her. She was given formal guarantees of security by the deputy mayor of Salta province, Dr. Manuel Torres Vásquez, in a resolution dated September 18, 2000. However, the journalist has testified that the guarantees never took effect. On October 26 of the same year, unidentified individuals entered the Gambini residence and took documents related to investigations that were underway. The journalist did not report the incident to the police because she felt that they would not give her any guarantee for her safety. She went instead to the office of the Human Rights Ombudsman in Chimbote, where she filed a complaint and received counseling.<sup>231</sup> On November 18 of that year, one of the journalist's children was kidnapped for nearly 10 hours. After a hunt that lasted until after midnight, the two-and-a-half year old boy appeared at the door of the house with a note on his clothes that said: "Tattle-tale, this is only a warning...."<sup>232</sup>

### **Arrests**

229. On December 2, 2000, Yehude Simon Munaro, former publisher of the magazine *Cambio*, was freed after eight years in prison. Simon had been arrested on June 11, 1992, and sentenced to 21 years in prison on charges of supporting terrorist activities through his reporting for the magazine.<sup>233</sup>

230. On December 14, 2000, according to information received, a review was began of the cases of journalists Hermes Rivera Guerrero, Antero Gargurevich Oliva, Juan de Mata Jara Berrospi, Javier Tuanama Valera, and Pedro Carranza Ugaz, who were imprisoned serving terms of from 12 to 20 years, accused of complicity and/or conspiracy with the armed subversion in the last decade.<sup>234</sup> The National Association of Journalists of Peru and the Office of Journalists' Human Rights, whose leaders visited the prisons in Cajamarca, Chiclayo, and Lima to gather fresh evidence of the journalists' innocence, reported that they had been in prison since the beginning of the 1990's. In some cases, the original complaints against the

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<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> World Press Freedom Committee (WPFC).

<sup>234</sup> *Id.*

inmates have been withdrawn, and in others they are held because they made false confessions after being tortured by the police, who even asked for payment to release them.<sup>235</sup>

231. The situation of Hermes Rivera, who has been in Picsi prison, Chiclayo, since May 8 1992; Antero Gargurevich Oliva, in Miguel Castro Castro prison, Lima, since March 6, 1993; Juan de Mata Jara Berrospi, since June 10, 1993 in Miguel Castro Castro prison, Lima; Javier Tuaiama Valera, since October 16, 1990, in Huacariz prison, Cajamarca; and Pedro Carranza Ugaz, since November 29, 1993, in Huacariz prison, Cajamarca, is similar to that experienced by 45 other journalists, who after being detained unjustly during the Fujimori regime have now been released.<sup>236</sup>

### **Legal and/or Judicial Actions**

232. In April of 2000, the Fourth Civil Court in Lima temporarily froze the bank accounts and four properties of the *Correo Publishing House* in Piura, Lima, and Arequipa, because of a libel suit filed by Congressman Miguel Ciccía Vásquez, then candidate of the Alliance of Peru.<sup>237</sup>

233. On May 23, 2000, the Press and Society Institute reported that a few days before the runoff presidential election scheduled by the National Electoral Board for May 28, two offices of the Public Prosecutor blocked the dropping of a criminal suit against the *El Comercio* publishing house for alleged irregularities in the use of dollars from the Mercado Unico de Cambios (MUC) during 1989 and 1990.<sup>238</sup>

234. In August of 2000, Manuel Ulloa Van Peborgh, director of the Central Reserve Bank (BCR) and owner of the newspaper *Expreso*, accused Cesar Hildebrant, editor of *Liberación*, and reporters Mariella Patriau and Fernando Viana, of aggravated defamation of character and sued them for civil damages of three and a half million sols (about one million US

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<sup>235</sup> *Id.*

<sup>236</sup> National Association of Journalists of Peru.

<sup>237</sup> IPYS.

<sup>238</sup> *Id.*

dollars). The suit was based on a news account published in the daily *Liberación*, which related a series of events that occurred after the death of former Senator and Economy Minister Manuel Ulloa Elias, father of the plaintiff.<sup>239</sup>

235. In August of 2000, Alfredo del Carpio Linares, editor of the program *Veredicto: La voz del pueblo de Radio Armonia* (Verdict: The People's Voice) in Camana, was sued by Enrique Gutiérrez Sousa, Provisional Mayor of Camaná, for alleged slander in an interview with Congressman Rubén Terán Adriaola, in which he was questioned about investments in programs for the municipality.<sup>240</sup>

236. In August of 2000, Congressman Jorge del Castillo of the American Revolutionary Popular Alliance (APRA) filed a criminal suit against the editorial committee of the magazine *Etecé* on charges of libel and defamation because of the magazine's publication of a series of photos identifying him attacking a police officer during the so-called "*Marcha de los Cuatro Suyos*." *Etecé* issued a press release apologizing for the involuntary error that it published in the magazine.<sup>241</sup>

237. On August 29, 2000, journalist Rosana Cueva of the daily *Liberación* was notified by the 290<sup>th</sup> Criminal Court of Lima of a case against her on charges of alleged aggravated defamation of a member of the Superior Court of Lima, Juan Miguel Ramos Lorenzo, stemming from an article published in said newspaper that called into question his actions as an official. Mr. Ramos demanded civil damages of at least one hundred thousand dollars.<sup>242</sup>

238. On September 14, 2000, Jimmy Arteaga, a former employee of *Channel 2—Frecuencia Latina* when it was owned by Baruch Ivcher, told the Press and Society Institute that for three years both he and his wife, journalist Mónica Ceballos, had been victims of legal

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<sup>239</sup> *Id.*

<sup>240</sup> International Federation of Journalists (FIP).

<sup>241</sup> IPYS.

<sup>242</sup> International Federation of Journalists (FIP).

harassment. Arteaga was accused four times of various criminal offenses, allegedly contrary to the interests of the Latin American Broadcasting Company, Inc.<sup>243</sup>

239. On October 13, 2000, Hugo Meza Layza, a journalist in Coishco, was sentenced to one year in prison (suspended) and payment of 300 sols in damages. The verdict, pronounced by the head judge of the Second Specialized Criminal Court, was based on a complaint against journalist Meza Layza (according to information received) for “falsely assuming the title of professional journalist and a college degree that he did not have.”<sup>244</sup>

240. On October 31, 2000, Adrián Aguilar Reyes, editor of the *Huandoy Noticias* program of *Radio Huandoy*, in Caraz, was given a conditional sentence of one year in prison and ordered to pay 1,500 sols in cash for civil damages for the alleged offense of slander against Mayor Pedro Crisólogo Castillo Flores for his denunciation of serious irregularities during the elections of April 9, 2000.<sup>245</sup>

241. In December of 2000, James Beuzeville Zumaeta, editor of the radio program *La Razón*, broadcast on *Radio Arpegio* in Iquitos, was sentenced to one year in prison (suspended) and required to pay civil damages of eight thousand new sols for the crimes of slander and aggravated defamation of José Tomás González Reátegui, former chairman of the Regional Administration Transition Council (CTAR) of Loreto and former Minister of the Presidency.<sup>246</sup>

### **Censorship**

242. On January 8, 2000, journalist Oscar Diaz's political radio program, *La Revista del Momento* (News of the Moment), which is broadcast on the station *Radio Miraflores*, was publicly censored by the station's owner, journalist Ricardo Palma. The censorship occurred as

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<sup>243</sup> IPYS.

<sup>244</sup> *Id.*

<sup>245</sup> *Id.*

<sup>246</sup> *Id.*

a result of separate interviews Diaz did with exiled businessman Baruch Ivcher and exiled former president Alan Garcia Perez.<sup>247</sup>

243. On February 9, 2000, Fernando Alfaro Venturo, director and host of the political analysis program *Linea de Mira* (Line of Vision) protested a decision to stop broadcasting reruns of the show, which have been aired every Sunday night for over four years. The program broadcasts live every Sunday at 7:00 a.m. (local time) and the reruns air at 10:00 p.m. (local time), on the *Canal 6-Video Oriente* television station, in Pucallpa, department of Ucayali. However, from now on, music videos will be broadcast in place of the later show. The interruption occurred precisely at the moment when the journalist began to report on a clash between members of the Peruvian National Police and the Navy, which had occurred a few days earlier in the city of Pucallpa, in full public view.<sup>248</sup> Moreover, Alfaro Ventura informed that he had been told by the owner of the channel, Emerson Benzaquen, “not to report on any issues that could affect President Alberto Fujimori or the presidential advisor Vladimiro Montesinos.”

244. On May 22, 2000, when *Channel N* was broadcasting live a ceremony involving then President Alberto Fujimori in the *Plaza de Armas* in Arequipa, there was a sudden interruption of the television signal. The newspaper *La República* reported that the station was taken off the air because outside parties cut the cable connecting the satellite dish with the *Plaza de Armas* in five places. At the end of the ceremony, the correspondent for *Channel N*, Carlos Torres Salas, was attacked, surrounded, and beaten by a group of supporters of Peru 2000 who stole his portable radio and a microphone.<sup>249</sup>

245. On October 25, 2000, in an apparent move to limit television coverage of anti-government demonstrations in Lima, the Peruvian Air Force imposed flight restrictions that effectively barred news stations from flying helicopters over the capital. On September 14, according to local press reports and sources contacted by the CPJ, the government abruptly declared an expanded no-fly zone over downtown Lima. Previously, only the presidential

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<sup>247</sup> *Id.*

<sup>248</sup> *Id.*

<sup>249</sup> *Id.*

palace and certain military zones were off limits, but the new no-fly zone covered most of Lima's historic district, where the demonstrations were taking place. The new policy particularly affects the Lima-based cable news station *Canal N*, which was launched just over a year ago by the owners of the daily *El Comercio*. *Canal N* is one of only a few Peruvian media that have dared to criticize the government of President Alberto Fujimori.<sup>250</sup>

246. On September 23, 2000, journalist Francisco Rodríguez Robles, editor of the news program *El Informante* on *Radio Alpamayo* in Huaraz, alleged that his program was suspended because of criticism it aired about television anchor Laura Bozzo and former adviser of the National Intelligence Service (SIN), Vladimiro Montesinos. According to complainant, the person in charge of management of the station urged him to change the news tone of his program, because otherwise the Ministry of Transport and Communication would not renew the station's license.<sup>251</sup>

### **Threats and Aggressions**

247. On January 6, 2000, reporter Bayron Horna and cameraman Miguel Ascencios of *Channel 2—Frecuencia Latina*; reporter John Ariza and cameraman Dany Felipa, of *Channel 9—Andean Television*; and reporter Aldo Kom of *Channel N* were attacked with stones, glass bottles, and wooden planks while they covered a demonstration of a group of people opposed to the re-election of then President Fujimori.<sup>252</sup>

248. On February 9, 2000, security guards of President Fujimori's former minister Valle Riestra attacked a reporter and photographer of the daily *Liberación*, Jair Ramírez, who were attempting to approach Valle Riestra to ask him for statements on political issues.<sup>253</sup>

249. On February 9, 2000, Gilmer Díaz, a reporter for the Municipal channel and host of the program *La Revista de impacto* (The Review with Impact) and José Flores Burgos, cameraman and news correspondent of *Panamericana Television*, were physically and verbally

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<sup>250</sup> CPJ.

<sup>251</sup> International Federation of Journalists (FIP).

<sup>252</sup> *Id.*

<sup>253</sup> IPYS.

attacked in Jaén province, Cajamarca department, while they covered the second round of protests organized by the Committee for Defense of Consumers of Jaén, which was calling for a reduction in electricity rates by Electronorte. Also attacked were reporter John Seclén and his cameraman Manuel Pereyra, both correspondents for *Channel 2—Frecuencia Latina*.<sup>254</sup>

250. On February 10, 2000, unidentified individuals broke into the installations of Channel 10, a subsidiary of Global Television, to steal valuable transmission equipment, cash and documentation of payments to the Internal Revenue Service. According to information received, the thefts occurred during the early morning hours, before the re-airing of the news program *Contacto Directo* (Direct Contact).

251. On February 16, 2000, Teobaldo Menéndez Fachín, editor and host of the program *Inédito* on *Radio Stacion X* in Yurimaguas, Loreto department, was physically attacked and threatened with death by two unidentified individuals. According to information received, they ordered the journalist to stop criticizing Nely Salinas, a congressional candidate for Peru 2000.<sup>255</sup>

252. On February 26, 2000, Mayor Sánchez Cabanillas verbally attacked and threatened to kill journalist Luis Villanueva López, editor and host of the news program *La Voz Informativa* (The Informative Voice) on Radio Los Angeles. According to information received, the program was investigating corruption by civil servants and criticized the municipal administration.<sup>256</sup>

253. On March 5, 2000, unidentified individuals placed a bomb at the doors of the studio of *Radio Junín*, causing material damage to the entrance and waiting room of the station. Furthermore, the editor of *Radio Junín*, Jacinto Figueroa Yauri, received threatening telephone calls in February and March after he reported incidents that occurred during the

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<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

<sup>256</sup> *Id.*



general strike called by the Committee for the Defense of Junín province and criticized the activities of the government.<sup>257</sup>

254. On March 14, 2000, journalist Luis Ugaz Espinoza of *Radio Astoria* was physically attacked and threatened with death. Also, on March 16, two individuals broke into the house of journalist Carlos Martínez Chávez of the same station, causing material damage.<sup>258</sup>

255. On April 3, 2000, Hernán Carrión de la Cruz, editor of the news program *Ancash en la Noticia* (Ancash in the News), alleged that he was the target of an attack by an unidentified person who attempted to shoot him from a vehicle. The journalist attributes the failed attempt to his criticism of the government.<sup>259</sup>

256. On April 9, 2000, a group of unidentified individuals attacked a team of journalists of *Panamericana Television* who were covering a demonstration in support of candidate Alejandro Toledo.<sup>260</sup>

257. On April 30, 2000, journalist Ronald Ripa Casafranca, editor for *Radio Panorama* of Andahuaylas, had his life threatened after he broadcast several live reports of a peasant strike in the region and the aftermath of the demonstration.<sup>261</sup>

258. On May 4, 2000, Uriel Meza Mayhua, a journalist with *Radio Sicuani*, was attacked by two employees of the Canchis province municipal government, Cusco department. According to the information received, Meza was doing a live broadcast of information about irregularities in personnel changes in the area's Public Works Department.<sup>262</sup>

259. On May 12, 2000, Hugo González Hinostrero, a correspondent of the daily *Liberación*, Omar Robles Torre, publisher of the biweekly *Presencia*, and Roger Luciano, a

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<sup>257</sup> International Federation of Journalists (FIP), Lima, Peru.

<sup>258</sup> IPYS.

<sup>259</sup> *Id.*

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

freelance photographer, were attacked by a group of employees in the sports field La Florida de Marcará, in Carhuaz province. According to information received, the aggression occurred while the journalists were taking photos and video of a demonstration of more than one hundred persons wearing t-shirts of the ruling party, Peru 2000.

260. On May 29, 2000, journalist Leddy Mozombite of *Radio Santa Rosa* was attacked by four unidentified individuals when she was leaving the station. Five days earlier, Jaime Pedroza Ruiz of the same station was attacked by two unidentified persons. On their radio programs the two journalists had revealed alleged irregularities committed by Peru 2000.<sup>263</sup>

261. In May of 2000, journalist Santiago González Coronado had his life threatened in Putumayo district. The journalist had reported in the daily *El Popular* on alleged irregularities committed by Mayor Pablo Cumary Ashanga.<sup>264</sup>

262. On June 8, 2000, Mónica Vecco, a journalist in the investigative unit of the daily *La República*, received several threats. Vecco had published an investigative report alleging that the Peru 2000 alliance had used the print shop of an official who worked for the National Intelligence Service to prepare campaign advertising.<sup>265</sup>

263. On July 4, 2000, José del Carmen Parraguez Pérez, host of the news program *Análisis* of *Radio FVC* in Nueva Cajamarca, a district in Rioja province, was the victim of physical attacks and death threats. According to information received, Parraguez had been the frequent target of death threats because of his stories about corruption in the state administration.<sup>266</sup>

264. On July 7, 2000, Alejandro Miró Quesada, editor of the daily *El Comercio*, alleged yet another threat against journalists of his paper and *Channel N* because they had

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<sup>263</sup> *Id.*

<sup>264</sup> *Id.*

<sup>265</sup> IPYS.

<sup>266</sup> International Federation of Journalists (FIP).

investigated and reported the falsification of signatures of supporters of the Peru 2000 Independent Front.<sup>267</sup>

265. On July 28, 2000, a dozen journalists and several media offices were attacked during a demonstration. According to information received, Miguel Carrillo and José Tejada, of the magazine *Etecé*, reporter Roberto Silva of Radio Programs of Peru (RPP), Guillermo Venegas and Virgilio Grajeada of the daily *La República*, Fidel Carillo of the daily *Liberación*, Luis Choy and Carlos Lezama of the daily *Ojo*, Rosario Vicentell of *Channel A*, Paul Vanotti of the U.S. agency Public Media Center, and a team from the Colombian television channel *Caracol TV* were attacked by demonstrators and members of the police when they covered a demonstration organized by the opposition to protest a third presidential candidacy for Alberto Fujimori.<sup>268</sup> Journalist Paul Vanotti, of the news agency *Public Media Center*, alleged that government officials asked him to change his version of the source of the attack, which had caused serious injury. Vanotti says he was attacked with a bullet fired from a police car.<sup>269</sup> Miguel Carrillo Pérez del Solar, photo editor of the magazine *Etece*, was another of the journalists who was attacked. He was beaten while taking pictures. During the incident he lost his camera and the film he had shot.<sup>270</sup> On the same day, some demonstrators attacked the offices of *Channel 4—America Television* and *Radio Programs of Peru (RPP)*, causing material damage. The driver of a mobile unit of *Channel 9—ATV* was attacked and the assailants partially dismantled the vehicle. During the night of June 28 to 29, a car with no license plates and tinted windows stopped twice at the door of the private *Channel N*. The first time, one of the occupants of the vehicle threatened the guard, and the second time, he fired four shots in the air with a weapon.<sup>271</sup>

266. On August 17, 2000, James Beuzeville, editor and host of the program *La Razón* on *Radio Arpegio* of Iquitos, Loreto department, had his life threatened by an unidentified individual because of his criticism of tourism business executive Roberto Rotondo. According to

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<sup>267</sup> *Id.*

<sup>268</sup> Reporters without Borders (RSF).

<sup>269</sup> IFEX.

<sup>270</sup> *Id.*

<sup>271</sup> *Id.*

the information received, for years Beuzeville has been a major target of threats, legal complaints, blackmail, and smear campaigns by people and institutions, including media in Iquitos, which were linked with the government of Alberto Fujimori .<sup>272</sup>

267. In July and August of 2000 journalist Moisés Cotrina del Aguila, editor of the *Síntesis de la Información* program on *Radio Mira* in Uchiza, Tocache province, San Martín department, was threatened by two low-ranking agents of the Peruvian National Police (PNP) and received strange police summons to report to a precinct. The journalist had denounced on his program a series of irregularities and arbitrary detentions by members of the PNP.<sup>273</sup>

268. On September 12, 2000, journalist Alexis Fiestas Quinto and photographer Víctor Granda, both with the daily *El Popular*, were attacked and kidnapped for two hours by people hired by the mayor of the Lima district of San Juan de Lurigancho, Ricardo Chiroque. The incident occurred when the journalists were covering a protest march by residents of a settlement who were demanding action to correct a health problem in the zone. The journalists also had their working materials confiscated.<sup>274</sup>

269. On September 15, 2000, Juan Herrera, correspondent of *Radio Cutivalú* in Bellavista district, Sullana province, was attacked by unidentified persons. According to the information received, the journalist was “attacked by people believed to have been hired by district mayor Emilio Pasapera Calle,” who was under fire for allegations of serious irregularities in his administration.<sup>275</sup>

270. On September 4, 2000, journalist Vicky Bazan Cossi, news director of *Radio Rimelsa* in Majes, correspondent for the daily *La República* and *Channel Fenix* in the city of Camaná, cameraman Esmeregildo Paz Pinto and assistant Alejandro Anconeyra Provincia,

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<sup>272</sup> IPYS.

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> IAPA.

were physically attacked by police officers in the town of Majes. The police broke in, firing shots in the air and tear gas bombs, and the scenes were captured on the journalists' film.<sup>276</sup>

271. On October 13, 2000, journalists César Ascues Uribe, of the daily *Liberación*, and César Romero Calle of the daily *La República*, alleged that they received telephone death threats because of their journalistic investigations that implicated high government officials.<sup>277</sup>

272. On October 16, 2000, unidentified individuals attacked the offices of *Panamericana Television* 24 hours after it broadcast a news report on excessive violence by police during a public protest march in the city of Tacna. The attackers took all the equipment from the editing room.<sup>278</sup>

273. On October 10, 2000, Jara Montejó, correspondent of the *Coordinadora Nacional de la Radio* (National Radio Coordinator) (CNR) and of the *Diario Regional de Huánuco*, was wounded in the right leg by the impact of a teargas bomb fired by a police officer. The journalist was covering a protest of agricultural workers of the Acayacu district in the Huanuco department.<sup>279</sup>

274. On October 25, 2000, journalist José del Carmen Parraguez Pérez, host of the radio news program *Análisis* of *Radio FVC*, in Nueva Cajamarca, was attacked by eight unidentified individuals. Days before the attack, the victimized journalist had been urged by a group of other unidentified individuals to give up his journalistic work and his continuous denunciations of state corruption.<sup>280</sup>

275. On October 27, 2000, journalist Sebastián Castro Mendoza, editor and host of the news program *Despertar Campesino* (Farmers' Wakeup) of *Channel 11* and *Radio San Sebastián*, in the city of Chepén, was threatened with death by Victor Izquierdo de la Cruz, president of the Rice Producers' Association and then-governor of the district of Guadalupe.

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<sup>276</sup> International Federation of Journalists.

<sup>277</sup> *Id.*

<sup>278</sup> *Id.*

<sup>279</sup> *Id.*

<sup>280</sup> *Id.*

According to the information received, the journalist had been reporting on irregularities in the Rice Producers' Association in the Valley of Jequetepeque.<sup>281</sup>

276. On November 15, 2000, Willy Zárate Araujo, a photographer for the daily *El Tío*, was physically attacked by a group of police who fired a tear gas bomb during a street demonstration. The incident occurred while Zárate Araujo was using his camera to record the violent repression meted out to the demonstrators.<sup>282</sup>

277. On November 13, 2000, Eduardo Geovanni Acate Coronel, host of the program *El Estelar of Radio Oriente* in San Lorenzo, Loreto department, alleged that he was attacked verbally and threatened by the governor of Barranca district, Héctor Huansi. The aggression occurred while Acate was interviewing the official.<sup>283</sup>

278. On November 16, 2000, journalist Roxana Aquino Garcia, a reporter of *Radio Lider* in Arequipa, was physically attacked and threatened by unidentified individuals presumably linked to Manuel Saiki Rios, treasurer of the Melgar club of the first division of Peruvian professional soccer. Aquino had blown the whistle several times against the treasurer of the club in recent months.<sup>284</sup>

279. On December 2, 2000, a fire destroyed the entire installations of the transmitter of *Radio Super Continental 1480 AM*, a station in Chulucanas province, in Piura. The incident occurred at dawn. The attackers doused the cabin of the transmitter with gasoline after the station aired investigative reports on irregularities in the local government of Chulucanas.<sup>285</sup>

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<sup>281</sup> IFEX.

<sup>282</sup> IPYS/IFEX.

<sup>283</sup> IPYS.

<sup>284</sup> *Id.*

<sup>285</sup> *Id.*

280. On December 12, 2000, Angela Talledo, a photographer for the daily *Liberación*, was attacked by the mayor of the Chaclacayo district of Lima, Delia Vergara (linked with the Fujimori movement *Vamos Vecinos* (Let's Go, Neighbors), while she was carrying out her journalistic duties in the Palace of Justice. When Angela Talledo recognized the mayor, she began photographing her. Delia Vergara repeatedly struck the journalist with a leather jacket and injured her on the arm. On the night of the same day, the reporter was victim of a strange robbery in which she lost her photographic equipment. An unidentified person threatened her with a weapon and stole her camera.<sup>286</sup>

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<sup>286</sup> *Id.*

#### D. Assassinations of Journalists

### JOURNALISTS ASSASINATED IN THE YEAR 2000

Data on the Journalist	Place and Date	Description of the Events	Background	Status of the Investigation*
Julio César Da Rosa, owner and editor of <i>Radio del Centro</i> . 36 years old	Baltasar Brum, Artigas, URUGUAY, February 24	Assassinated by former local official Carmelo Nery Colombo, who fired on the journalist, then killed himself.	The journalist had hinted on his program that the official was unqualified to hold public office.	The Uruguayan government condemned the act and began an investigation.
Zezinho Cazuza, journalist for the local station <i>Radio Xingó FM</i> .	Canindé de São Francisco, BRAZIL, March 13	Assassinated by gunshot while he was leaving a party.	On several occasions, the journalist had accused Mayor Genivaldo Galindo da Silva of corruption. Local media reported the mayor had publicly threatened to kill the journalist.	Two days after the assassination, police arrested a person who said the mayor had paid him US\$1,500 to kill the journalist.
Jean Léopold	Port-au-Prince,	Assassinated	The victim was an	There are 6 people



<p>Dominique, owner and director of <i>Radio Haiti Inter</i>. 69 years old</p>	<p>HAITI, April 3</p>	<p>by gunshot when he was entering his workplace. The station's security guard was also killed.</p>	<p>influential political journalist with strong background in defending freedom of expression.</p>	<p>detained accused of being the material authors of the crime. There are other suspects. The investigation has registered a series of irregularities including threats to judges and witnesses.</p>
<p>Roberto Martínez, photographer for the daily <i>Prensa Libre</i>. 37 years old</p>	<p>Guatemala City, GUATEMALA, April 27</p>	<p>Assassinated by private security agents who fired against a group of street demonstrators. The journalist-- covering the story—was shot in the head. Two other demonstrators</p>		<p>The Guatemalan Government informed the Office of the Special Rapporteur that the police arrested two suspects for the crime against the photographer. According to the government, the arrested individuals belonged to a private security</p>

		<p>were killed.</p> <p>Other journalists and photographers were wounded.</p>		<p>agency and were in service of a local store when the crime occurred.</p> <p>The Appeals Court sentenced one of the private police agents to 15 years of imprisonment after holding him guilty of the crime.</p>
<p>Juan Camilo Restrepo Guerra, of the community radio <i>Galaxia Estéreo</i>. 26 years old.</p>	<p>Sevilla, COLOMBIA, October 31</p>	<p>Assassinated by a gunshot presumably fired by a member of an armed dissident group. His brother witnessed the assassination.</p>	<p>The journalist had severely criticized the local government.</p>	<p>There have been no arrests for the assassination.</p> <p>According to government investigators, the journalist was probably killed for his reports critical of local government.</p>
<p>Gustavo Camilo Restrepo Guerra, director of the local radio <i>Galeón</i></p>	<p>Pivijay, Magdalena, COLOMBIA, November 15</p>	<p>Assassinated with a bullet wound in the head by two unidentified persons in a city plaza.</p>		

Alfredo Abad López, editor of the local radio <i>La Voz de la Selva</i> and professor of social communication at the <i>Universidad Nacional Abierta y a Distancia</i> . 36 years old	Florencia, COLOMBIA, December 13	Assassinated with a shot fired by presumed members of an armed dissident group. The assassins fired on him from a motorcycle as he was saying goodbye to his wife in front of his house.	Just a week before the assassination, in a telephone call to the Press and Society Institute of Peru, he said he did not know the background of threats received by his colleague Guillermo León Agudelo, killed two weeks earlier.	There have been no arrests for the assassination.

\* The events described in this section include information received as of the publication of this annual report (April, 2001).