

## CHAPTER II

### ASSESSMENT OF THE CURRENT STATE OF FREEDOM OF EXPRESSION IN THE HEMISPHERE

#### A. Introduction. Methodology

1. This Chapter describes certain aspects related to the current state of freedom of expression in the Americas. It includes, as did previous reports, a table summarizing cases in which journalists were murdered in 2002, the circumstances surrounding their deaths, the possible motives of the killers, and the status of investigations.

2. To facilitate the description of the specific situation in each country, the Rapporteur classified the various methods used to curtail the right to freedom of expression and information. All of these methods are incompatible with the Principles on Freedom of Expression adopted by the Inter-American Commission on Human Rights (IACHR). The list includes, in addition to murder, other forms of aggression such as threats, detention, judicial actions, intimidation, censorship, and legislation restricting freedom of expression. The Chapter also includes, for certain countries, positive developments, such as the passing of access to information laws, the abolition of *desacato* (contempt of authority) in one country of the hemisphere and the existence of bills or judicial decisions conducive to full exercise of freedom of expression.

3. The data in this Chapter correspond to 2002. The Office of the Special Rapporteur for Freedom of Expression receives information on freedom of expression-related developments from a number of different sources.<sup>16</sup> Once the Office has received the information, and bearing in mind the importance of the matter at hand, it begins the verification and analysis process. Once that task is completed, the information is grouped under the aforementioned headings. For the purposes of this report, the Rapporteur condenses the information into a series of exemplary paradigms reflecting each country's situation *vis-à-vis* respect for, and exercise of, freedom of expression, and it mentions both progress made and any deterioration observed in this field. In most cases, the sources of the information are cited. It should be pointed out that the reason that the situation in some countries is not analyzed is that the Office of the Special Rapporteur has not received information; the omission should not be construed in any other way.

4. Finally, the Rapporteur would, on the one hand, like to thank each of the States and civil society throughout the Americas for their collaboration in forwarding information regarding the current state of freedom of expression. On the other hand, the Rapporteur would also like to urge States to continue and increase that collaboration in order to enrich future reports.

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<sup>16</sup> The Rapporteur receives information from independent organizations working to defend and protect human rights and freedom of expression and from directly concerned independent journalists, as well as information requested by the Office of the Rapporteur from representatives of OAS member states and others.

## B. Evaluation

5. Freedom of expression and access to information are key ingredients in consolidating democracy in the Hemisphere. Through freedom of expression and access to information members of society are able to monitor the behavior of the representatives they elect. This watchdog function plays a crucial part in preventing impunity for human rights violations.

6. Freedom of expression and access to information also play a decisive part in a country's economic development. Government corruption is the biggest single obstacle to equitable economic development, and the best way to fight it is to expose corrupt practices for public scrutiny and to guarantee the participation of all segments of society in public policy decisions that affect their daily lives.

7. It is precisely because they are the public's watchdogs that members of the press are frequently targeted for acts of violence and intimidation aimed at silencing them. Murders, attacks, threats, and intimidation not only silence individual journalists; they also have a profound impact on their colleagues, by creating an atmosphere of fear and self-censorship. The assassination of media personnel is still a serious problem in this respect: ten were murdered in 2002 for exercising their profession. This is an unfortunately larger number than that published by the Rapporteur in the previous annual report.<sup>17</sup> This means we should insist on the fact that the assassination of media personnel in the course of their profession not only constitutes a violation of the fundamental right to life but also exposes other social communicators to a situation of fear that could induce them to censor themselves.<sup>18</sup>

8. At the same time, as Principle No. 9 of the Declaration of Principles on Freedom of Expression indicates,<sup>19</sup> acts of aggression, and not just murder, strongly restrict freedom of expression. In many countries in the Hemisphere, as the report shows, such acts continue, and in some of them have even increased alarmingly.

9. As troubling as these acts against the physical integrity of persons are, equally troubling is the impunity that many such crimes enjoy, whether they are perpetrated by State agents or by private individuals. The IACHR has established that the lack of serious, impartial, and effective investigation and punishment of the material and intellectual perpetrators of these crimes constitutes not only a violation of guarantees of due process of the law but also a violation of the right to inform and express one's views publicly and freely, thereby generating the international responsibility of the State.<sup>20</sup>

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<sup>17</sup> The 2001 Report mentioned the murder of nine journalists. This year's report mentions 10 media personnel who were murdered, including one photograph, one cameraman, one newspaper distributor, the driver of a mobile television van, and six journalists.

<sup>18</sup> Here the Rapporteur recalls Principle 9 of the Declaration of Principles on Freedom of Expression which stated: murder, kidnapping, intimidation of and/or treats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression.

<sup>19</sup> *Id.*, Principle 9.

<sup>20</sup> IACHR, Report N° 50/99, Case 11.739 (Mexico), April 13, 1999. Likewise, the Inter-American Court of Human Rights stated: "The State is, at the same time, obliged to investigate any circumstances in which human rights protected under the Convention are violated. If the authorities act in such a way that the violation goes unpunished and the victim's full rights are not restored at the earliest possible opportunity, the State may be said to have failed to comply with its duty to guarantee for persons under its jurisdiction the free and full exercise of those rights. The same applies when private individuals or groups of them are allowed to act freely and with impunity in ways detrimental to the human rights recognized in the Convention."

10. Apart from these acts of physical violence, rules and regulations in most countries of the Hemisphere allow other methods designed to silence journalists, the media, and people in general. The Rapporteur expresses his grave concern at the use of lawsuits by the authorities or public figures to silence critics.

11. Taking into consideration what has been said above, the Office of the Special Rapporteur observes that little progress was made in consolidating freedom of expression in the Americas in 2002. There are still legal obstacles to the full exercise of freedom of expression by social communicators, journalists and media in general, as well by human rights defenders and others whose freedom of expression is curtailed, either directly or indirectly.

12. As shown in Chapter V of this Annual Report and as is clear from the information received by the Office of the Special Rapporteur, the arbitrary use of slander and libel laws to silence criticism of government officials or public figures was still a tactic employed against investigative journalists in several countries in 2002. In addition, in many other countries, with some exceptions that are pointed out below, "*desacato*" (or "insult") laws are still in force and are wrongfully used to silence the press.

13. As regards access to public information, discussion continued in numerous countries on the need for and importance of specific laws on the subject.

14. The right to access to information is not just a theoretical priority; it is also a priority for eminently practical reasons. Effective exercise of this right serves to combat corruption, which is one of the factors capable of seriously undermining the stability of the democracies in the Americas. The lack of transparency in the conduct of public affairs has distorted economic systems and contributed to social disintegration. The Organization of American States has identified corruption as a problem requiring special attention in the Hemisphere. At the Third Summit of the Americas, the Heads of State and Government recognized the need to increase efforts to combat corruption since it "*undermines core democratic values, challenges political stability and economic growth.*" The Plan of Action of the Third Summit also stresses the need to support initiatives geared to achieving greater transparency in order to safeguard the public interest and to encourage governments to use their resources effectively for the common good.<sup>21</sup> Corruption can only be fought effectively through a combination of efforts to raise the level of transparency in government acts.<sup>22</sup> Transparency in the conduct of government affairs can be enhanced by establishing a legal regime allowing society access to information.

15. Although it is promising that discussion of this topic has entered the priority agendas of some states, not much progress has been made with respect to the promulgation of laws supporting this right, which is crucial for ensuring transparency in government and the protection of the right of societies to have access to information. Only a few countries adopted legislation of this kind in the course of the year under review. The Office of the Special

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<sup>21</sup> See the Declaration and the Plan of Action of the Third Summit of the Americas. Quebec City, Canada, April 20-22, 2001.

<sup>22</sup> See the Inter-American Convention against Corruption, Inter-American System of Legal Information, OAS.

Rapporteur will continue to monitor these processes, as well as the implementation and enforcement of laws regulating access to information.

16. The Rapporteur has heard some States and members of society express concern at the possibility that the media do not always act either responsibly or ethically. First, the Rapporteur would like to draw attention once again to the fact that the media are primarily responsible to the public, and not to the government. The principal function of the media is to inform the public about, among other things, measures taken by the government. This is a basic function in a democracy, so that any threat of imposing legal sanctions for journalistic decisions that are based essentially on subjective insights or professional judgment would also have the effect of inhibiting the media and preventing the dissemination of information of legitimate interest to the public.

17. The fact that governments should not regulate responsibility on the part of the media or their ethics does not imply that there are no ways of improving media practices. Nevertheless, it should be pointed out that the media will take a more responsible approach if they are free to elect how they inform and what they report and they receive the education needed to make ethical decisions.

18. Both journalists and media owners should be mindful of the need to maintain their credibility with the public, a key to their survival over time, and of the important role of the press in a democratic society. In the Plan of Action of the Third Summit of the Americas held in April 2001, in Quebec City, Canada, the Heads of State and Government stated that would encourage the media to practice self-regulation.

19. "The notion of self-regulation of the media refers to a set of mechanisms and instruments based on a shared objective of guaranteeing that the media act in accordance with their own professional values and standards. The distinctive mark of self-regulation is that for it to come about and work effectively there has to be free initiative and a voluntary commitment on the part of the three subjects of communication: the owners and producers of media enterprises; the professionals who work for them; and the public which receives or figures in the communications." The mechanisms and instruments employed in self-regulation include: codes of ethics, style books, drafting by-laws, ombudsmen, information councils, etc.<sup>23</sup> In the Special Rapporteur's view, the media should take up this challenge of self-regulation, encouraging ethical and responsible behavior.

20. On the other hand, the Office of the Special Rapporteur has received expressions of concern on the part of members of civil society and the media about the possible consolidation of practices that impede the existence of diversity and pluralistic expression of opinions, given the concentration of ownership of communications media, including print media as well as radio and television. In this sense, the Rapporteurship recalls that the Declaration of Principles on Freedom of Expression, elaborated by the Office of the Special Rapporteur for Freedom of Expression and adopted by the Inter-American Commission on Human Rights<sup>24</sup> is

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<sup>23</sup> See, Hugo Aznar, "*Ética y Periodismo*" [Ethics and Journalism], Ed. Paidós, *Papeles de Comunicación* 23, Barcelona, 1999, p. 42.

<sup>24</sup> The idea of drafting a Declaration on Freedom of Expression arose out of recognition of the need for a legal framework to regulate the effective protection of freedom of expression in the hemisphere that would incorporate the principal doctrines set

clear in that sense: monopolies or oligopolies in the ownership and control of the communications media affect freedom of expression. The Principle 12, explicitly indicates that "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 plurality and diversity which ensure the full exercise of people's right to information." Nevertheless, this principle also clarifies that in no case should these laws be exclusively for communications media. The Rapporteurship will continue observing this problem with attention in order to develop recommendations that correspond to the particular situations in each of the different member States.

21. Finally, as mentioned in previous reports, the Rapporteur continues to feel that there has to be more political will on the part of the member States to pass legislative reforms guaranteeing society ample exercise of the right to freedom of expression and information. Democracy requires extensive freedom of expression and therefore cannot thrive if states continue to allow mechanisms that thwart the exercise of that freedom. The Office of the Rapporteur reaffirms the need for States to make a more robust commitment to guarantee this right and thereby consolidate democracy in the Americas.

### **C. The status of freedom of expression in member states**

#### **ARGENTINA**

##### **Threats and Aggression**

22. In 2002, the Office of the Rapporteur for Freedom of Expression received approximately 30 alerts of threats to and aggression against journalists. The majority of these cases took place in provincial towns and cities and many of them were related to media coverage of public protests and demonstrations in public spaces.<sup>25</sup>

23. In 2002, journalist Carla Britos, editor of the newspaper *La Tapa*, in Guernica, in the province of Buenos Aires, was subjected to intense harassment as a result of reports carried by her newspaper. In June, she was watched and followed by a car that was parked at the door of her house. On three occasions, the driver of this car threatened her with death for having published in *La Tapa* reports concerning irregularities committed by the former mayor. She was also threatened by telephone and by electronic mail.<sup>26</sup>

24. In January 2002, journalist Martín Oeschger of *FM Paraná Radio San Javier* in Capitán Bermúdez was stopped by a car and shot at by five individuals inside. As a result of this, the Secretary General of the Municipal Workers Union of Capitán Bermúdez, Jesús

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forth in different international instruments. The Inter-American Commission on Human Rights approved the Declaration of Principles on Freedom of Expression at its 108<sup>th</sup> regular sessions in October 2000. This declaration constitutes a basic document for interpreting Article 13 of the American Convention on Human Rights. Its adoption not only serves as an acknowledgment of the importance of safeguarding freedom of expression in the Americas, but also incorporates international standards into the inter-American system to strengthen protection of this right. See, IACHR, Annual Report, 2000, Volum III.

<sup>25</sup> Association for the Defense of Independent Journalism.

<sup>26</sup> Journalists against Corruption (*Periodistas frente a la Corrupción* -PFC), World Association of Newspapers (WAN) and Writers in Prison Committee (WiPC).

Monzón, was detained for a few days. Previously, the same Monzón had damaged the radio station in which Oeschger was working and had also threatened him with death. In previous years, shots were fired at the journalist's house and he suffered death threats and physical assaults.<sup>27</sup>

25. On April 1, journalist Maria Mercedes Vásquez of *LT7 Radio Corrientes* was struck in the face a week after accusing some members of the New Party (*Partido Nuevo*) of smuggling weapons into the country. In February, Vasquez and her husband Silvio Valenzuela, also a journalist for *LT7 Radio Corrientes*, were accused of defamation by Manuel Sussini, Senator and member of the Autonomist Party (*Partido Autonomista*), because of a news broadcast in which he was linked to acts of corruption. A few months ago, in October 2002, unknown persons threw a Molotov cocktail at the journalist's house, presumably in reprisal for having broadcast a recording of telephone conversations that implicated national legislators, the President of the Upper Court of Justice in Corrientes, and various local leaders, in an apparent conspiracy against the Governor Ricardo Colombi.<sup>28</sup>

26. On April 29, 2002, Roberto Mario Petroff of the daily newspaper *Tiempo Sur* in the province of Chubut, was physically assaulted by unknown persons days after having published a piece on incidents that occurred during street protests. According to the Santa Cruz Press Union, journalists and photographers are routinely threatened in this province.<sup>29</sup>

27. Information has also been received about assaults on journalists and television reporters by supporters of former president Carlos Menem. On May 3, 2002, guards of the former president cornered journalist Daniel Malnatti, of the program *Caiga quien Caiga*, in the province of Tucumán, beat him, and threatened him with firearms. On June 23, 2002, journalists of the *Todos Noticias* channel and a photographer for the newspaper *Clarín* were attacked by a group of individuals whose faces were covered, while the reporters were covering a demonstration of neighborhood assemblies protesting against the former President. On September 26, 2002, *Radio Ciudad* reporter Zaida Pedroso and two other journalists for *FM Metro* and *Clarín* were insulted, physically assaulted, and prevented from doing their work by a group of individuals who were in control of the location. On September 30, 2002, once again, journalists and television reporters covering the scene as Menem arrived to appear in court were attacked. The frequency of these attacks on the work of the press reflects the intolerance and use of violence by some political circles in response to the claims and demonstrations of citizens. In November 2002, journalists from *Canal 13* and the cable channel *Todo Noticias* of Buenos Aires were physically assaulted by supporters of former president Menem during a campaign meeting. According to information received by the Special Rapporteur, the organizers refused without explanation to allow them in to cover the event and only one television station was allowed access.<sup>30</sup>

28. On July 7, 2002, Alberto Lamberti, a town councilor in Comodoro Rivadavia, Chubut, declared that "he would make a José Luis Cabezas (a photographer who was

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<sup>27</sup> Association for the Defense of Independent Journalism

<sup>28</sup> Journalists against Corruption (PFC), December 29, 2002.

<sup>29</sup> Id.

<sup>30</sup> Id.

murdered in January 1997) of every man in the local press, because they do not write about what he thinks is the news.” These remarks triggered an irate response from local journalists’ associations, which construed them as intimidation. Hours later, the councilor said he had only been joking. Notwithstanding this clarification, the Chubut Union of Local Press Workers demanded that Lamberti should be removed from his post.<sup>31</sup>

29. In September 2002, a federal judge ordered the State Intelligence Secretariat (SIDE) to draw up a list of all the incoming and outgoing calls on the telephone lines of journalist Thomas Catan, *Financial Times* correspondent in Argentina, in connection with an investigation into corruption in the Senate. In August, the journalist had published an article on a denunciation filed by a group of foreign bankers with the embassies of Great Britain and the United States regarding alleged requests for bribes by Argentine legislators. After being summonsed on September 17, the journalist had testified in court and provided the information requested but refrained from identifying his sources. In light of the decision handed down by the federal judge, the journalist appealed for protection (*amparo*) from the Federal Chamber in order to prevent the decision from being implemented. The brief presented by the journalist argues that the judge’s order violated the constitutional protection of the sources of information established in Article 43 and 18 of the National Constitution, which guarantees the privacy of the home, of correspondence, and of private papers of individuals. Finally, the Federal Chamber annulled the judge’s decision and ordered the destruction of the lists of telephone numbers in the presence of the journalist and his lawyers.

30. In October 2002, unidentified persons threw an explosive into the home of journalist María Mercedes Vásquez, in the city of Corrientes, causing material damage to her home. The journalist reported the incident to authorities and was granted police protection. Vásquez works on the *En el Aire* program of *Radio Corrientes* in which some days before the attack she had broadcast recordings of telephone calls that compromised various local officials. The journalist had previously suffered other attempts to intimidate her because of her journalistic work. Between February and March 2002, a provincial senator requested her arrest and that of her colleague Silvio Valenzuela for insulting a public official (*desacato*), a legal provision still in effect in the provincial constitution. Both journalists had broadcast information about the alleged taking of bribes by provincial legislators. Vásquez presented a petition of habeas corpus to the court, which determined that Article 8 of the Provincial Constitution invoked by the Senator was unconstitutional. Days later, the journalist received telephone threats in her house and at the radio. One of the calls was taken by her daughter to whom the callers explained how they were going to kill her mother. In another of the calls they said, “You’re going to end up like Cabezas (an Argentine photographer murdered in January 1997) with six shots in your head and inside a trunk.” On April 1, María Mercedes Vásquez was attacked in the street by two individuals who threatened her and struck her in the face. The journalist immediately made a statement to the authorities and was assigned a police guard.<sup>32</sup>

31. On October 26, 2002, police agents fired rubber bullets at journalists Alberto Recanatini Méndez and Tomás Eliashev from the Agency *Indymedia Argentina*. The journalists were covering a demonstration in front of the National Congress and at the moment

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<sup>31</sup> Association for the Defense of Independent Journalism (PERIODISTAS).

<sup>32</sup> *Id.*, and Reporters Without Borders (RSF)

of the assault were filming the police taking aim at the balconies of a building from where a man had thrown a flowerpot at them. The police fired notwithstanding the fact that the two journalists were identified as members of the press and carried their equipment. Recanatini was hit in the head and the other on the elbow.<sup>33</sup>

32. On November 13, 2002, members of the program *Telenoche Investiga* of Canal 13 of Buenos Aires denounced a series of acts of intimidation against them. The intimidation began after the program broadcast a series of reports looking into cases of abuse of minors by a Roman Catholic priest in a charitable institution. During one of the broadcasts, the presenters informed the audience that members of the program were being followed and subjected to intimidatory acts, and other pressures. The journalists said they did not want to go into greater detail out of fear for their personal safety.<sup>34</sup>

33. On November 19, at a political party gathering, a group of supporters of former president Carlos Menem punched and kicked journalist Martín Cicioli, producer Nicolás Chausovsky, and television cameraman Sergio Di Nápoli of the *Kaos en la Ciudad* program transmitted by Channel 13 in Buenos Aires. While the journalists were waiting behind a barrier, a group of supporters of the former president approached the members of the press and began insulting, then kicking and punching them. Miguel Santiago, producer of the cable channel, *Todo Noticias (TN)*, and his companion Ignacio Marcalain, were also attacked.

34. On November 26, 2002, one of the guards protecting journalist Miguel Bonasso was shot at in the door of Bonasso's home by an unknown group. The journalist attributed the attack to the investigation that he was carrying out into the events of December 23, 2001 in Argentina after the fall of President Fernando de la Rúa. Bonasso declared in a television program that the intention of the attack had been to intimidate him so as to prevent him from publishing his investigations.<sup>35</sup>

### **Others**

35. The Office of the Rapporteur for Freedom of Expression received information that the government of Neuquen had ordered the cancellation of all official advertising in the newspaper *Río Negro* after it had published reports on influence peddling and other illicit pressure being exerted on local legislators. It should be recalled in this regard that Principle 13 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that “the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans, the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of

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<sup>33</sup> Association for the Defense of Independent Journalism (PERIODISTAS).

<sup>34</sup> Association for the Defense of Independent Journalism (PERIODISTAS).

<sup>35</sup> Association for the Defense of Independent Journalism (PERIODISTAS), and the Committee for the Protection of Journalists, December 11, 2002.



expression, and must be explicitly prohibited by law.”<sup>36</sup> The Office of the Special Rapporteur will continue to monitor developments in the aforementioned case of the newspaper *Rio Negro*.

## **BRAZIL**

### **Assassinations**

36. On June 2, 2002, investigative reporter Tim Lopes, of *TV Globo*, disappeared and was later found murdered. According to news reports, he was last seen on assignment in the suburbs of Rio de Janeiro, in an impoverished community, known as a *favela*. On June 12, police found badly decomposed human remains, along with Lopes' camera and watch, in an clandestine cemetery in Favela da Grota. After DNA tests, the police confirmed on July 5 that the remains belonged to Lopes.

37. On above-mentioned date, Lopes had traveled to Favela Vila do Cruzeiro. This was Lopes's fourth visit to Vila do Cruzeiro, and this time, he was carrying a hidden camera. According to *TV Globo*, Lopes was working on a report about parties that were hosted by drug traffickers in Vila do Cruzeiro and that allegedly involved drugs and the sexual exploitation of minors. Reporter Cristina Guimarães, who co-produced the report with Lopes and two other colleagues, received death threats in September 2001 and had to leave the state of Rio de Janeiro, according to *O Estado of Sao Paulo*. The daily *Jornal do Brasil* reported that Lopes, had also received threats as a result of the report.<sup>37</sup>

38. On September 19, 2002, Brazilian police captured a local drug trafficker who was the leading suspect in the disappearance and murder of Tim Lopes. Elias Pereira da Silva, also known as Elias the Madman, was apprehended in one of Rio de Janeiro's *favelas*. According to the Rio de Janeiro Civil Police, two suspects, both members of the gang headed by Pereira da Silva, were arrested on the morning of June 9. Both men claimed that they heard how Lopes was murdered but denied any involvement in his killing. According to the suspects' depositions, after Lopes told them he was a *TV Globo* reporter, the traffickers called Pereira da Silva, who was in a nearby *favela*. They tied Lopes' hands, forced him into a car, and took him to the *favela* where Pereira da Silva was staying. There, they beat the reporter and shot him in the feet to keep him from escaping. Then they held a mock trial and sentenced Lopes to death. Pereira da Silva killed Lopes with a sword, and his body was burned and buried in a clandestine cemetery, said the suspects.

39. On September 30, 2002, journalist Domingos Sávio Brandão Lima Júnior was murdered. Brandão was the owner, publisher, and a columnist of the daily *Folha do Estado*, which is based in the city of Cuiabá, in the central Brazilian state of Mato Grosso. Brandão was shot at least 5 times by two unidentified men on a motorcycle, according to several news reports.<sup>38</sup> The two men had been waiting for Brandão near the paper's new offices, which are

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<sup>36</sup> Journalists Against Corruption, January 9, 2003, Inter-American Press Association (IAPA), January 29, 2003, Reporters Without Borders, January 10, 2003.

<sup>37</sup> The Committee to Protect Journalists (CPJ), June 5, 2002.

<sup>38</sup> The Rapporteurship for Freedom of Expression issued a press release to condemn the killing of journalist Domingos Sávio Brandão Lima Júnior and urged the Brazilian government to investigate this murder immediately.

under construction. According to the information received, several people witnessed the murder. According to news information, Brandão's death relates to the paper's extensive coverage of drug trafficking, illegal gambling, and acts of corruption involving public officials, but also mentioned that the journalist was a businessman who owned construction and publishing companies. Brandão had not received any threats, according to the newspaper. Police investigators said evidence indicates that his murder was a contract killing, but that the motive remains unclear.<sup>39</sup>

40. On 1 October 2002, Hércules Araújo Coutinho, a military police sergeant, and Célio Alves de Souza, a former military police officer, were arrested for their alleged participation in the crime. Hércules Araújo Coutinho was recognized by witnesses as one of the killers. He was also implicated by the ballistic experts' examination and fingerprints connecting him with five other murders that had occurred in the region during the year.<sup>40</sup>

### **Threats and aggression**

41. In September 2002, Saulto Borges and Joana Queiroz, reporters for the newspaper *A Crítica* in the city of Manaus, northern state of Amazonas, and Jutan Araújo, a journalist with the television station *Camaçari*, in the city of Camaçari in the northeastern state of Bahia, reported that they had been threatened. According to the information provided, starting the week of August 26 to 30, the journalists for *A Crítica* complained of receiving intimidating calls after initiating an investigation into homicides committed by a group which, according to them, was engaged in an extermination campaign in Amazonas. Araújo claimed to have received death threats on the telephone after writing an article on persons occupying properties in a neighborhood of Camaçari, a town near Salvador, the capital of Bahia. Araújo added that in the last call, an unknown person assured him that he was very familiar with his daily routine and that his every step was being followed.<sup>41</sup>

### **Positive developments**

42. The Office of the Special Rapporteur for Freedom of Expression was informed by the Brazilian State that on October 25, 2002, the Superior Electoral Tribunal of Brazil decided, on a summary basis and by unanimous vote, to invalidate the prior censorship being imposed on the newspaper *Correio Braziliense* in connection with the publication of telephone recordings linking the Governor of Brasília, Joaquim Roriz a Roriz, with businessmen accused of crimes against the state. The day before, October 24, a judge on the Regional Electoral Tribunal of Brazil had ordered that a judicial officer and the attorney for the Governor's political party supervise the content of every page of the October 24 edition of the newspaper *Correio Braziliense*.

43. *Correio Braziliense* and other sources had published information on telephone recordings taped by the Federal Police in connection with a court case entailing the investigation of two businessmen, brothers surnamed Passos, under suspicion of irregular real

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<sup>39</sup> Committee to Protect Journalists, CPJ, October 1, 2002.

<sup>40</sup> Reporters without Borders (RSF), October 9, 2002.

<sup>41</sup> *Asociación para la Defensa del Periodismo Independiente* (PERIODISTAS), September 17, 2002.

estate zoning activities. As later revealed, some of those intercepted conversations linked the Governor Roriz with these businessmen. In late September, Judge Meguerian of the Regional Electoral Tribunal (TRE), had ordered that no one should publish the content of these recordings. He later reversed this decision since the tapes had already been made public on television and the Internet. Three weeks later, the judge acted on the Governor's request regarding the edition of *Correio*. According to the paper, the judge prohibited publication of a 35-line article entitled "Influence in the government," which only referred to the tapes in question and did not reproduce the conversations between Roriz and one of the Passos brothers.<sup>42</sup>

## **CANADA**

### **Judicial actions**

44. In July 2002, the Royal Canadian Mounted Police obtained a search warrant and assistance order against the *National Post* to require the *Post's* editor-in-chief to hand over documents pertaining to a controversy over a loan involving the Prime Minister. The paper has presented legal challenges to the order. On October 3, 2002, a judge in the Ontario Superior Court granted a request by two additional media organizations, the CBC (Canadian Broadcast Corporation) and the *Globe and Mail*, to intervene in the case, stating that the limits on police powers in the investigation of crime is an "important public issue" requiring a "full hearing."<sup>43</sup>

45. On November 4, 2002, the Toronto Police seized the unedited tapes of an interview conducted by *W-5*, a *CTV* program. The interview, which had not yet been aired at the time of the seizure, was with Salim Danji, who is awaiting trial in a case of alleged investment fraud. The Police obtained a warrant for the tapes stating that the material could be helpful to their investigation of the case.<sup>44</sup>

## **CHILE**

46. The Special Rapporteur for Freedom of Expression, Eduardo A. Bertoni, visited Chile on December 16 to 17, 2002, at the invitation of the Chilean government. He observed some progress by the State in adapting its domestic legislation to the international standards that guarantee the observance of the exercise of the freedom of expression. In that respect, it is important to emphasize that the Cinematographic Rating Law was recently passed, abolishing censorship in the constitutional framework, a significant step forward in the observance of freedom of expression in Chile.

47. However, the Special Rapporteur expresses his concern regarding certain judicial decisions that harm the right to freedom of expression. The Special Rapporteur was briefed on cases that concern journalists and individuals that had criticized government officials or public people. The Special Rapporteur will carefully follow up on those and other cases, and points out that one of the main concerns of the Rapporteurship for Freedom of Expression is the

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<sup>42</sup> The Office of the Rapporteur had issued a press release publicly condemning this judicial decision. See annexes.

<sup>43</sup> Canadian Journalist for Free Expression (CJFE), October 7, 2002.

<sup>44</sup> *Id.*, November 6, 2002.

use of the judicial system in many countries of the hemisphere as tools for intimidation, so that in practice it becomes an instrument to restrict freedom of expression.

48. During his visit, the Special Rapporteur also gathered information on a bill sent by the Executive to the Congress about the abolition of the *desacato* (contempt) laws that are included in the Criminal Code and the Code of Military Justice of Chile. The Special Rapporteur recommends that the Congress discuss this promising initiative and promptly pass the law, to finish the process that started with the abolition of Section 6 b of the State Security Law. As long as this bill is not passed, Chile will continue to have legislation on contempt, thus, contravening the international standards universally established, as the Rapporteurship has noted in its previous reports.

### **Judicial actions**

49. On January 15, 2002, Carlos Pinto, journalist and host of the program *El día menos pensado* of *Televisión Nacional*, and René Cortázar, Executive Director of the television station, were charged by Carmen Garay, Judge of the 19<sup>th</sup> Criminal Court of Santiago with the crime of "serious libel." *El día menos pensado* is a popular program that presents stories about paranormal phenomena in the format of dramatic reenactments. The charges stemmed from a dramatization presented on Mr. Pinto's program in which a psychic had a "vision" that a woman who had allegedly committed suicide had actually been murdered by her husband. Although the real names of the parties involved were not used, businessman Alejo Véliz Palma realized that the story was based on a psychic's reported "vision" of his wife's death. Mr. Véliz filed the complaint for "serious libel."<sup>45</sup>

50. On January 18, 2002, the Consejo de Defensa del Estado (CDE) appealed a favorable decision in the case of journalist Paula Afani of *La Tercera*, calling for a sentence of 5 years and one day. Ms. Afani had been charged in 1999 in connection with the publication of reports in *La Tercera* and *La Hora* about an investigation of drug trafficking and money laundering known as "Operación Océano." The reports were published during the indictment phase of the investigation, when judicial proceedings are secret. The objective of the complaint against Ms. Afani was to force her to reveal her journalistic sources, which she refused to do. As a result, she was jailed on January 15, 1999. She was released a few days later, but the process against her continued. On December 13, 2001, she was absolved by the judge of the Sexto Juzgado del Crimen del Valparaíso, a decision which is currently under appeal by the CDE.<sup>46</sup>

51. On September 30, 2002, lawyer Jorge Balmaceda filed a legal action for libel against Víctor Gutiérrez of the daily *La Nación*. The journalist had written a series of articles about the trials of military members and former military members for human rights violations committed during of the dictatorship of Augusto Pinochet. In one of the articles, Mr. Gutiérrez reported an interview with a former official of the Armed Forces, who stated that Mr. Balmaceda had engaged in irregular practices in the context of his representation of the defendants in the

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<sup>45</sup> *Instituto Prensa y Sociedad (IPYS)*, January 15, 2002.

<sup>46</sup> *Id.*, January 23, 2002.

human rights trials, to the benefit of those who had participated in the violations. In addition to the lawsuit, Mr. Gutiérrez suffered death threats as a result of his reports on the trials.<sup>47</sup>

52. On October 15, 2002, Colonel Patricio Provoste, counter-intelligence sub-director for the Chilean Air Force, filed a criminal action for libel and associated damages against *La Nación* director Alberto Luengo. Like the action against Víctor Gutiérrez, the action against Mr. Luengo arose out of the circumstances of the trials for human rights violations of former officials of the Pinochet dictatorship. Mr. Luengo wrote an article about a group of military officers who were allegedly working to impede judicial investigations of the human rights violations. According to the journalist's sources, Colonel Provoste was part of this group, an allegation denied by the Colonel.<sup>48</sup>

53. In 2002, the proceedings against businessman Eduardo Yáñez for the crime of *desacato*, or disrespect against authority, continued. As reported in the 2001 Annual Report of the Office of the Special Rapporteur, Mr. Yáñez appeared as a panelist on the *Chilevisión* television channel's *El Termómetro* program on November 28, 2001. During the program, he criticized the Chilean Supreme Court for the mistakes it had committed in two cases. As a result of Yáñez's statements, the Court filed suit under the disrespect provisions of Article 263 of the Criminal Code. On January 15, 2002, Mr. Yáñez was arrested and charged in the Court of Appeals of Santiago. The next day, Mr. Yáñez was able to make bail and was provisionally released. Mr. Yáñez appealed the charges to a higher court, but the appeal was denied on October 29, 2002.<sup>49</sup> The decision was appealed again, but the appeal was again rejected on December 18, 2002.<sup>50</sup> Beatriz Pedraids, Prosecutor for the Court of Appeals recommended that Yáñez be sentenced with 541 days' fine.<sup>51</sup> If convicted of the charges against him, he could be sentenced to up to five years in prison. The Office of the Special Rapporteur has repeatedly expressed its concern about these proceedings and has recommended that the State of Chile repeal the provisions of Article 263 of its Criminal Code that establish the crime of disrespect of authority.

## Censorship

54. On December 3, 2002, the First Criminal Court of Santiago ordered the seizure of all copies of the book "Cecilia, la vida en llamas." The order was in response to a complaint by Cecilia, a popular singer, against Cristóbal Peña, the author of the unauthorized biography about her. The singer presented a complaint against Mr. Peña for libel, stating that the contents of the work damaged her honor.<sup>52</sup> In a letter dated December 18, 2002, the Inter-American Commission on Human Rights requested that the government of Chile provide the Commission with information regarding this case within a period of 15 days. At the State's request, the

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<sup>47</sup> *La Asociación para la Defensa del Periodismo Independiente* (PERIODISTAS), October 4, 2002.

<sup>48</sup> *Id.*, October 21, 2002.

<sup>49</sup> *Id.*, November 12, 2002; See also CPJ, November 19, 2002.

<sup>50</sup> Committee to Protect Journalist (CPJ), December 18, 2002.

<sup>51</sup> *La Semana Jurídica: Abogados de Yáñez denuncian error judicial* (Yáñez's lawyers denounce judicial error), December 27, 2002.

<sup>52</sup> *Instituto Prensa y Sociedad* (IPYS), December 3, 2002. The Commission was also notified of this directly by the petitioner in December of 2002.

Commission extended the deadline until January 25, 2003. As of this writing, the Commission has not received any further response from the Chilean government. On January 13, 2003, the Second Chamber of the Court of Appeals of Santiago affirmed the order for seizure of the book.<sup>53</sup>

## Others

55. In October 2002, the Commission received information about attempts to prevent the exhibition of "Prat," a play by Manuela Infante about Arturo Prat, a Chilean hero of the War of the Pacific. First, the president of the Corporación 11 de septiembre brought a complaint under the State Security Law, which was rejected by the court for procedural reasons. A private citizen brought another action, a *recurso de protección*, complaining that the work caused injury to the honor and image of Prat. Additionally, five members of Congress asked the Minister of Education to suspend the play's debut, arguing that the play violates Article 19(10) of the Constitution, which requires the State to protect the cultural patrimony of the nation. The same five members of Congress submitted a resolution (*proyecto de acuerdo*) to Congress to impede the exhibition of the play because they considered that it portrays Prat as "cowardly, irrational, drunk, and homosexual."<sup>54</sup> The Special Rapporteur for Freedom of Expression expressed his concern about the possible use of prior censorship and asked the Chilean government to provide additional information relating to this situation in a letter dated October 16, 2002. The State replied in a letter dated October 21, 2002. The State noted that the motion presented to Congress was defeated by a vote of 43 to 40, and that, even if it had passed, it would have had the character of a recommendation rather than a legally binding instrument. The State affirmed that the action filed by the *Corporación 11 de septiembre* had been rejected by the Courts. The State did not have any information about the legal actions instituted by private individuals, but noted that the play had been performed in a theater festival on October 18, 2002.

## Positive developments

56. In April 2002, the Court of Appeals of Santiago ruled that Chilean television stations must provide sign language interpretation during one of their most watched newscasts. This decision was the result of a protection remedy (*recurso de protección*) presented by two deaf individuals, who argued that sign language is the sole means of communication of 90% of the deaf population of Chile. Without sign language interpretation, this large sector of the population would not have access to news.<sup>55</sup>

57. On May 3, 2002, World Press Freedom Day, the government of Chile announced that it would present a bill to the House of Deputies to repeal the *desacato* laws and to decriminalize defamation.<sup>56</sup> Also in May 2002, Deputy Victor Barrauto, a member of the House of Deputies, introduced Bill 2929-07, legislation that would eliminate Chile's remaining *desacato*

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<sup>53</sup> *Instituto Prensa y Sociedad (IPYS)*, January 14, 2003

<sup>54</sup> Commission of the Chilean Forum for Freedom of Expression (*Comisión del Foro Chileno para la Libertad de Expresión*) in a letter dated October 14, 2002.

<sup>55</sup> *Red de Derecho de Interés Público*, April 9, 2002.

<sup>56</sup> World Press Freedom Committee, May 8, 2002; Committee to Protect Journalists (CPJ), May 7, 2002; IPyS, May 7, 2002.

laws.<sup>57</sup> In September 2002, President Ricardo Lagos introduced Presidential Bill 212-347, which, like Bill 2929-07, would eliminate all remaining *desacato* provisions from Chilean law.<sup>58</sup>

58. On October 30, 2002, the Chilean Senate passed the Law on Film Rating (*Ley de Calificación Cinematográfica*). The law will replace the system of prior censorship of films with a film rating system, based on the age of moviegoers. The Inter-American Commission on Human Rights has been observing the progress of this legislation since it was proposed by President Ricardo Lagos on March 5, 2001, in the context of the sentence of the Inter-American Court of Human Rights against the government of Chile in the case of the Last Temptation of Christ. The IACHR and the Office of the Special Rapporteur have previously expressed satisfaction with the system of film ratings to protect minors from entering films that are inappropriate for their age level.<sup>59</sup> The law was enacted by the President at the end of 2002, and entered into force upon its publication on January 5, 2003.

## COLOMBIA

### Assassinations

59. On January 30, 2002, Orlando Sierra Hernández, assistant editor of the daily *La Patria* in Manizales, department of Caldas, was shot in front of the newspaper's offices. He died two days later. Mr. Sierra was one of the most influential journalists in the region. He wrote a column called *Punto de encuentro*, in which he critically analyzed issues of national and regional concern, including cases of corruption. In his weekly columns, Mr. Sierra also criticized leftist rebels and a right-wing paramilitary group. Luis Fernando Soto ultimately pled guilty to the murder and was sentenced by a Special Judge of Manizales (*Juez Especializado de Manizales*) to 19 and a half years in prison. In May 2002, authorities also arrested Luis Arley Ortiz Orozco, on suspicion of having been the intermediary between those who ordered the crime and those who carried it out. The Attorney General's Office is also investigating Francisco Antonio Quintero Torres upon suspicion that he heads the gang of assassins of which Mr. Soto was a part. The intellectual authors of the crime have not been apprehended.<sup>60</sup>

60. On April 11, 2002, two members of a news crew from *RCN Televisión* were shot while covering fighting between the Colombian army and leftist rebels. Wálter López, the crew's driver, died on the scene and Héctor Sandoval, a cameraman, died the next day from the wounds he had received. The news crew came under fire in a mountainous region outside the southwestern city of Cali where the army was pursuing fighters from the Revolutionary Armed Forces of Colombia (FARC). According to a witness from another media organization, the journalists had decided to turn back when an army helicopter hovering above opened fire on their vehicle, hitting López. The witness stated that the letters "RCN" were marked in large,

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<sup>57</sup> World Press Freedom Committee, May 16, 2002.

<sup>58</sup> The Office of the Special Rapporteur received a copy of this Bill during the Special Rapporteur's visit to Chile in December 2002. See also, World Press Freedom Committee, September 11, 2002.

<sup>59</sup> See 2001 Annual Report of the Office of the Special Rapporteur for Freedom of Expression, Ch. V, para. 7.

<sup>60</sup> IPyS, January 30, 2002; IPyS/IFEX, February 14, 2002, May 23, 2002; Fundación para la Libertad de Prensa (FLIP), January 31, 2002; Reporters sans frontières (RSF), January 31, 2002; World Association of Newspapers (WAN), February 1, 2002; *Sociedad Interamericana de Prensa*/Inter-American Press Association (SIP-IAPA), February 1, 2002; Committee to Protect Journalists (CPJ), April 18, 2002; *Centro Análisis de Información*, April 18, 2002.

bright colors on the roof and both sides of the vehicle. The journalists tried to signal the helicopter for help by waving white T-shirts in the air. Fifteen minutes after López was shot, a bullet from the helicopter hit Sandoval. The army has opened an investigation into the killings. The head of the anti-abduction force, Colonel Carlos Arévalo denies that the army was responsible and asserts that the journalists were attacked by the FARC.<sup>61</sup>

61. On June 28, 2002, Efraín Varela Noriega, owner of *Radio Meridiano 70*, was murdered. Mr. Varela was driving home from a university graduation in Arauca Department, along with his sister and brother-in-law, when their car was intercepted by a white truck. Several heavily armed men forced the journalist to get out of his car, which was marked with the insignia of *Radio Meridiano 70*, and shot him in the face and chest. Mr. Varela's sister and brother-in-law were unharmed. Mr. Varela was the host of two news and opinion programs at *Radio Meridiano 70*, in which he frequently criticized all sides fighting in Colombia's 38-year civil conflict. Less than a week before the killing, Varela told listeners during his morning news show that fighters from the paramilitary United Self-Defense Forces of Colombia (AUC) had arrived in Arauca and were patrolling the streets in the town, which is on the border with Venezuela. In addition to being a journalist, Mr. Varela was an attorney, teacher, and social leader with a particular interest in peace and conflict resolution and human rights. Mr. Varela's professional activities had made him a frequent object of threats from both the paramilitaries and the guerillas. His name had appeared in a list of people declared "military objectives" by the paramilitaries of the AUC. In the months before his death, Varela had begun warning his family and colleagues that his life could be in danger. According to his widow, Mr. Varela had received threats as recently as two days before his death. The Human Rights Unit of the Attorney General's Office (*La Unidad de Derechos Humanos de la Fiscalía de la Nación*) has assumed the investigation of the case.<sup>62</sup>

62. On July 11, 2002, Mario Prada Díaz, the founder and director of the monthly newspaper *Horizonte Sabanero* (later renamed *Horizonte del Magdalena Medio*) in the Santander Department in northeastern Colombia, was abducted from his house in the municipality of Sabana de Torres. The next morning, his body was found riddled with gunshots not far from his home. The motives for the killing and the possible perpetrators are unclear. There was no indication that the journalist had received any threats prior to his death. Prada's newspaper is dedicated to covering cultural, social, and community development issues. The paper had written about financial irregularities involving the municipal administration of Sabana de Torres just a week earlier. Additionally, a week before Prada's murder, the head of a right-wing paramilitary force in the region had warned that his group would begin killing journalists. The place where his body was found is located in a zone that has been in constant dispute by the Front 22 of the Revolutionary Armed Forces of Colombia (FARC), the Vásquez Chacón Front of the National Liberation Army (ELN), and the Central Block of the United Self-Defense Forces of Colombia (AUC).<sup>63</sup>

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<sup>61</sup> SIP/IAPA, April 12, 2002; CPJ, April 12, 2002; RSF, April 12, 2002; *Asociación Nacional de Periodistas* (ANP), April 13, 2002.

<sup>62</sup> IPyS, June 29, 2002; RSF, July 1, 2002; CPJ, July 1, 2002; SIP/IAPA, July 2, 2002.

<sup>63</sup> *Fundación para la Libertad de Prensa* (FLIP), July 12, 2002; CPJ, July 12, 2002; IPyS, July 12, 2002; RSF, July 15, 2002; Canadian Journalists for Free Expression (CJFE), July 16, 2002; SIP/IAPA, July 17, 2002; World Association of Newspapers (WAN), July 17, 2002; Writers in Prison Committee (WiPC) of International PEN, July 17, 2002.



63. On July 11, 2002, Elizabeth Obando, who was responsible for the distribution of the regional newspaper *El Nuevo Día* in Roncesvalles municipality, Tolima department, was shot. Obando was travelling on a bus in Playarrica, Tolima department when unknown armed men intercepted the vehicle, forced her to get out and minutes later shot her several times. She died two days later from the injuries. Angela Yesenia Bríñez, the municipality's spokesperson, was also killed. The 21st division of the Revolutionary Armed Forces of Colombia (FARC) is believed to be responsible for the attack. Ms. Obando had previously been threatened by "Donald," leader of the FARC's 21st division, because of a September 21, 2001 article published in *El Nuevo Día* criticizing the FARC.<sup>64</sup>

### Threats and Aggression

64. On January 30, 2002, a car bomb exploded in front of the *Canal Caracol* television station studios, in Bogotá's La Soledad neighborhood, resulting in extensive damage to the station and surrounding buildings. No one was injured. The incident occurred at 4:15 a.m. (local time), after three men abandoned the vehicle, which was loaded with approximately 30 kilograms of dynamite. According to Police Colonel Rubén Jaramillo, the assailants fired shots at a local police post before carrying out the attack. Initial findings reportedly pointed to the Revolutionary Armed Forces of Colombia (FARC) guerrilla movement as likely being responsible for the attack.<sup>65</sup>

65. In March 2002, seven journalists who have covered high-profile criminal investigations for major Colombian media organizations were threatened with death and given three days to leave the country. The threats were communicated in two letters that were styled after funeral notices and contained all of the journalists' names. The first letter was received by *RCN Televisión* on March 1. *Caracol Televisión* received an identical letter three days later. The threatened journalists are: Jairo Lozano, reporter for the daily *El Tiempo*; Juan Carlos Giraldo, senior correspondent for *RCN Televisión*; Julia Navarrete, correspondent for *Caracol Televisión*; Jairo Naranjo, correspondent for *RCN Radio*; Hernando Marroquín, correspondent for *Caracol Radio*; Marilyn López, correspondent for *Noticias Uno*; and José Antonio Jiménez, a former correspondent for *TV Hoy*, which recently folded. All seven journalists had covered high-profile drug investigations for their news organizations. The Attorney General's Office is investigating the threats. The journalists have been provided with bodyguards through the Interior Ministry's Program for the Protection of Journalists and Social Communicators. At least three of them are currently in hiding within Colombia and some have temporarily left the country.<sup>66</sup>

66. In March 2002, the Office of the Special Rapporteur received information that newspaper columnist Fernando Garavito had recently fled Colombia after a series of events that made him fear for his life. Garavito, who writes a Sunday column for the Bogotá-based newspaper *El Espectador*, left Colombia for the United States on March 21. In a series of columns, Garavito attacked the right-wing United Self-Defense Forces of Colombia (AUC). He

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<sup>64</sup> *Fundación para la Libertad de Prensa* (FLIP), July 25, 2002; RSF, July 26, 2002.

<sup>65</sup> SIP/IAPA, January 30, 2002; *Fundación para la Libertad de Prensa* (FLIP), January 31, 2002; World Association of Newspapers (WAN), February 1, 2002; RSF, February 1, 2002.

<sup>66</sup> IPyS, March 8, 2002; CPJ, March 11, 2002; RSF, March 12, 2002.

also wrote about the upcoming May 2002 presidential election, describing then-front-running presidential candidate Álvaro Uribe as an ultra-right candidate whose election would be dangerous for the country. Garavito began having problems soon after the columns appeared. His name appeared in a communiqué published by the AUC criticizing the Colombian press.<sup>67</sup>

67. On March 25, 2002 Cesar Mauricio Velásquez, dean of the Sabana University Faculty of Communications and Journalism, received a telephone call warning him of a planned attack against a number of journalists in Bogotá. The caller, who identified himself as a retired army sergeant, said he was calling to warn Velásquez about a plan to assassinate journalists believed to be "Colombia's enemies." Velásquez's name was included on one of the lists of journalists to be killed. The name of journalist Carlos Pulgarín also figures on the list. Velásquez received another similar call on April 8. In addition to the threats, Velásquez also reported that on April 6, as he was heading home, a vehicle tried to block his way and corner him. A similar incident occurred on April 8, but on both occasions he was able to escape his pursuers. Velásquez is unsure of the reason that he is being targeted. As faculty dean, Velásquez oversees the Media Watch (*Observatorio de Medios*) project, which analyzes various issues affecting the media. One of the project's reports, published in *Semana* magazine during the first week of February, featured journalists who cover the conflict reflecting on who is responsible for intimidating the Colombian press. Velásquez is also a reporter for the *Hora Cero* television news program. Velásquez notified authorities and the other journalists about the alleged plot. The Interior Ministry's Program for the Protection of Journalists and Social Communicators has provided him with a bodyguard.<sup>68</sup>

68. On April 4, 2002 Carlos José Lajud, of the works for the Bogotá station *Citytv*, received a threatening letter at the *Citytv* offices. "Our sincere condolences...for the death of Carlos Lajud," read the note. The letter accused the journalist of serving the interests of Colombia's ruling class, declared him and his family military targets, and demanded that he leave the country within three days. Since February, Lajud has produced some 20 investigative reports claiming that the Revolutionary Armed Forces of Colombia (FARC) and the smaller National Liberation Army (ELN) have established armed cells in the capital. The letter was the most serious of several threats against Lajud that began in late February, just three days after his reports on the new urban guerrilla groups began to air. Lajud claims not to know the source of the threats. The journalist was provided with a bodyguard by the Interior Ministry's Program for the Protection of Journalists and Social Communicators. Lajud and his wife Patricia Busigo left Colombia on July 16 as a safety precaution. Lajud is the son of the late radio journalist Carlos Alfonso Lajud Catalán. In 1993, Catalán was shot and killed after he publicly accused a local mayor of corruption.<sup>69</sup>

69. On April 7, 2002, two bombs exploded near the *Radio Super* station in Villavicencio, the capital of Meta department. The explosions killed twelve people, injured seventy, and caused material damage to the station and other surrounding buildings. The authorities suspect that guerrillas of the Revolutionary Armed Forces of Colombia (FARC) are responsible for the attack. It was not clear whether the attack was directed at the radio station

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<sup>67</sup> CPJ, March 29, 2002.

<sup>68</sup> IPyS, April 29, 2002; CPJ, May 9, 2002.

<sup>69</sup> CPJ, April 11, 2002; IPyS, April 24, 2002; *Fundación para la Libertad de Prensa* (FLIP), July 19, 2002.

or against the public in general. Presidential candidate Álvaro Uribe suggested that the blast was directed at the *Radio Super* station for having transmitted his speeches. The radio station was contracted to transmit live Uribe's visit and began to receive threats after promotional spots advertising the upcoming broadcast were aired. The radio station went ahead with the broadcast despite the threats.<sup>70</sup>

70. On April 12, 2002, a rocket exploded near the studios of *RCN Televisión* in Bogotá. Local authorities said the station was intentionally targeted. The blast destroyed a brick wall surrounding a building located less than 40 feet from the station in an industrial neighborhood in south Bogotá, according to a spokesman for the city's police department. There were no victims. The rocket was apparently fired at a range of less than 1,000 feet (300 meters) from the station by a man who was driven to the area on the back of a motorcycle. No one was injured in the attack, which authorities blamed on the leftist Revolutionary Armed Forces of Colombia (FARC).<sup>71</sup>

71. On April 22 and 23, unidentified men threatened to kill television journalist Daniel Coronell and his 3-year-old daughter. Coronell, news director of *Noticias Uno*, a current affairs program on the Bogotá TV station *Canal Uno*, received threatening calls on his cellular phone at his home and office after he aired an investigative report examining possible links between the country's leading presidential candidate, Álvaro Uribe Vélez, and drug traffickers. The report also questioned whether Uribe gave his father preferential treatment when he was director of the Civil Aeronautics Department by accelerating the granting of a license for a helicopter that belonged to a company that his father co-owned. In addition to the threats received by Coronell, Ignacio Gómez, director of investigations at *Noticias Uno*, received numerous death threats after the reports were aired. Coronell reported the threats to police and sent his daughter out of the country with relatives.<sup>72</sup>

72. On May 6, 2002, Mauricio Amaya and Diego Burgos, two drivers for the television station *Caracol* were kidnapped in the municipality of Santa Cecilia, near the border of Chocó and Risaralda departments. Amaya and Burgos were travelling in vehicles belonging to *Caracol* to pick up a team of journalists. The captors identified themselves as members of the *Ejército Revolucionario Guevarista*, a dissident group of the National Revolutionary Army (ELN). The captors accused television stations of belonging to the economically powerful groups in the country and stated that "the war is changing, and everyone is playing a role in it." The two men were released 48 hours later.<sup>73</sup>

73. On May 14, 2002, Carlos Pulgarín, a journalism professor at the Universidad de La Sabana in Bogotá, left the country out of concern for his safety. He had suffered repeated incidents of threats and intimidation, apparently resulting from his exposés of violence perpetrated by Colombia's warring factions. On March 14, 2002, his birthday, Pulgarín received

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<sup>70</sup> IPyS, April 11, 2002; CPJ, April 19, 2002.

<sup>71</sup> CPJ, April 15, 2002; *Centro Análisis de Información*, April 13, 2002; *Asociación Nacional de Periodistas*, April 13, 2002.

<sup>72</sup> CPJ, April 26, 2002; IPyS/IFEX, April 26, 2002; RSF, May 6, 2002.

<sup>73</sup> IPyS, May 7, 2002; *Centro de Análisis de Información*, May 7, 2002; SIP/IAPA, General Assembly Reports, October 2002.

a phone call from an unidentified man who told him to enjoy his birthday because it would be his last. On March 19, Pulgarín received a phone call from someone identifying himself as a retired army sergeant who warned of plan to kill him and other journalists. Later that day, he received another call, this time the caller stated that the plot would be carried out by paramilitaries and members of the army. He received another similar call on April 8. On May 8, 2002, he was threatened by two men who approached him as he was walking toward the bus stop to go to work. The men also asked him to deliver a threatening message to César Mauricio Velásquez, the dean of the Universidad de La Sabana's department of social communication and journalism. Pulgarín said that the same men had harassed and threatened him on several previous occasions since 2001.<sup>74</sup>

74. On May 16, 2002, journalists Nidia Álvarez Mariño and Ramón Vásquez Ruiz of the Santa Marta-based daily *Hoy Diario del Magdalena* and their driver, Vladimir Revolledo Cuisman, were abducted in Magdalena by the leftist Revolutionary Armed Forces of Colombia (FARC). The reporters had been traveling to a town south of Santa Marta to cover stories on a local court case and on satanic cults when they unknowingly drove into a rebel roadblock near Ciénaga, about 420 miles (670 kilometers) from Bogotá. The rebels kidnapped nine other people in addition to the reporters and the driver. Álvarez was freed unharmed the following morning, but the rebels continued to hold Vásquez and Revolledo. Several days after the abduction, the newspaper received a demand for the equivalent of U.S. \$250,000 and the publication of a four-page communiqué in exchange for the release of Vásquez and Revolledo. The communiqué apparently analyzed the current political situation in Colombia and lambasted the paramilitary army. The newspaper did not comply with the abductors' demands, but offered instead to publish an interview with a FARC commander. However, both Vásquez and Revolledo were ultimately released unharmed without any action taken by the station. Revolledo was released on May 24 and Vásquez was released on May 28.<sup>75</sup>

75. On June 29, 2002, the radio station *Meridiano 70*, in the city of Arauca, capital of Arauca department, received two telephone calls in which death threats were made against journalist Josédil Gutiérrez. These threats came only 19 hours after the director and owner of the station, Efraín Alberto Varela Noriega, had been murdered.<sup>76</sup> The caller identified himself as a member of the United Self-Defense Forces of Colombia (AUC) and gave the journalist 24 hours to leave the city. Mr. Gutiérrez chose to stay out of fear that his family members could be in danger of retaliation if he were to leave. He requested protection from the State, however, the Office of the Special Rapporteur has no information as to whether or not this was granted. Mr. Gutiérrez, who has over ten years of experience as a journalist in local and national media, had been working with Mr. Varela on the program *Hablemos de Política*, which, over the course of the month, had been presenting different points of view on the candidates for governor of the department.<sup>77</sup>

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<sup>74</sup> CPJ, May 9, 2002; IPyS, May 20, 2002.

<sup>75</sup> IPyS, May 20, 2002, May 29, 2002; CPJ, May 21, 2002, May 24, 2002; Writers in Prison Committee (WiPC) of International PEN, May 22, 2002, June 6, 2002.

<sup>76</sup> See, *supra* regarding the murder of Efraín Alberto Varela Noriega.

<sup>77</sup> IPyS, July 1, 2002.

76. On June 30, 2002, Luis Eduardo Alfonso, another *Meridiano 70* journalist, decided that it was necessary for him to flee the city when his name appeared on a list of individuals targeted for assassination by the United Self-Defense Forces of Colombia (AUC). On March 9, he had also received a threatening telephone call from someone claiming to be with the Revolutionary Armed Forces of Colombia (FARC). The threat was apparently related to the station's coverage of the presidential elections.<sup>78</sup>

77. On July 3, 2002, Astrid María Legarda Martínez, a correspondent who covers the conflict in Colombia for independent *RCN Televisión*, fled the country after learning that the Revolutionary Armed Forces of Colombia (FARC) was plotting to kill her in reprisal for her coverage of the conflict. She had reported on the fighting between paramilitaries and guerrilla groups and conducted interviews with paramilitaries of the United Self-Defense Forces of Colombia (AUC). Legarda learned of the alleged plan from a source in a high-security prison in Bogotá. She declined to identify her source but described him as reliable and said that he has connections to the FARC.<sup>79</sup>

78. On July 8, 2002, four employees of the *RCN Radio* and *Radio Caracol* stations were kidnapped, allegedly by the Revolutionary Armed Forces of Colombia (FARC) guerrillas. The kidnapped media workers were: Luis Eduardo Perdomo and José Rodríguez, a driver and technician for *RCN Radio*, respectively, along with Oscar González and Elio Fabio Giraldo, a technician and driver for *Radio Caracol*. The incident occurred while they were reporting on the national long-distance bicycle race, in Tolima department. All four individuals were released unharmed on July 11, but their equipment and vehicles were not returned to them.<sup>80</sup>

79. Also on July 8, 2002, United Self-Defense Forces of Colombia (AUC) paramilitaries threatened the newspapers published in Barrancabermeja, Santander department. The threats were delivered by Commander "Alex," of the AUC central block, who stated in an interview printed in the July 8 edition of *Vanguardia Liberal*: "Either [the press] stops toying with the community's pain, or we will find ourselves in the unfortunate position of having to execute someone, so that they understand the people's pain." According to "Alex," the threats stem from the "sensationalistic" way in which local media report in the Barrancabermeja port. The oil-producing region is disputed territory between the AUC and the guerrillas. There are four weeklies published in Barrancabermeja: *La Noticia*, *El Vocero*, *La Tarde de Santander* and *Periódico 7 días*.<sup>81</sup>

80. On July 9, 2002, two unidentified gunmen accosted Anyela Muñoz, owner of the weekly *El Vocero*, on a street in Barrancabermeja. The gunmen told her that if this week's issue of her paper were published, someone was going to die. She refused to stop production of the paper, instead reporting the incident to the local Human Rights Ombudsman (*Defensoría del Pueblo*) and the National Police. The Police have placed a guard outside of the newspaper's offices and have provided Muñoz with personal protection.<sup>82</sup>

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<sup>78</sup> IPyS, July 1, 2002.

<sup>79</sup> CPJ, July 12, 2002; FLIP, July 19, 2002.

<sup>80</sup> IPyS, July 8, 2002, July 12, 2002; RSF, July 10, 2002; World Association of Newspapers, July 15, 2002.

<sup>81</sup> RSF, July 10, 2002; IPyS, July 8, 2002; *Fundación para la Libertad de Prensa* (FLIP), July 9, 2002.

<sup>82</sup> IPyS, July 9, 2002; CPJ, July 12, 2002; FLIP, July 12, 2002.

81. On July 19, 2002, a threatening letter was delivered to the offices of the *RCN* news program in Cali, Valle del Cauca department. It listed eight journalists who were given 72 hours to leave the city or face being declared "military targets." The letter was signed by the Manuel Cepeda Vargas urban militia, western division of the Revolutionary Armed Forces of Colombia (FARC) guerrillas. The journalists named in the letter were: Albeiro Echavarría, of the *Noti5* television station newscast; Álvaro Miguel Mina, reporter for *Radio Caracol*; Luis Eduardo Reyes, director of a program broadcast on *RCN Radio*; Diego Martínez Lloreda, assistant editor of the daily *El País*; Humberto Briñez and Wilson Barco, correspondents for the *RCN* television station; Hugo Palomar, of *Caracol Televisión*, and columnist Mario Fernando Prado. The journalists were accused of being "puppets of President Pastrana's military regime" and "enemies of the people who defend the interests of the oligarchy." The letter ends by referring to the journalists as "liars who lack in professional ethics." A number of the journalists on the list have previously received threats or been victims of intimidation. In addition to the threats against the journalists, the letter reiterated threats against several local officials. The authorities do not believe that the letter is authentic. In a similar incident, on July 18, 2002, a letter signed "FARC Secretariat" was received at the offices of *Radio Super*, in Bogotá. The note claimed that the newscasts of the *Caracol* and *RCN* radio and television stations had been declared "military targets." The authenticity of this letter was not confirmed or denied by authorities.<sup>83</sup>

82. On July 23, 2002, journalists Jorge Carvahalo Betancur, former director of *Todelar* in Antioquia, and Fernando Vera Ángel, director of *Radioperiódico Clarín*, a regional news program specializing in political news, were wounded by an attack with explosives in a cafeteria in Medellín. In the same attack, Hildebrando Giraldo Parra, a former congressman and former manager of the Energy Company of Medellín (Empresa de Energía de Medellín), was killed. Council member Fabio Estrada Chica and four other were also injured. The cafeteria was a popular gathering place for politicians and journalists, including Carvahalo and Vera, to meet each day to discuss local political issues. The motive of the attack is still unclear, although it was believed to have been aimed at some politicians who were present that day.<sup>84</sup>

83. On July 29, 2002, a threatening e-mail message was sent to *Radio Meridiano-70* and to *Caracol Televisión* correspondent Rodrigo Ávila. The writer of the e-mail accuses press members and media owners in the Arauca Department of flouting justice and warns that they could be declared military targets. The Arauca Liberators Block of the paramilitary United Self-Defense Forces of Colombia (AUC) signed the letter. Ávila, *Caracol's* correspondent in Arauca, said he has received at least 10 threats by telephone during the last week and has hired a bodyguard with financial help from a private human rights group in Colombia. He said repeated requests for protection from the previous government and the new government of President Álvaro Uribe Vélez, who took office August 7, have gone unanswered. Evelyn Varela, manager of *Meridiano-70* and daughter of the late journalist Efraín Varela, who was assassinated on June 28, 2002, said she reported the e-mail message to local authorities, who have not responded.<sup>85</sup>

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<sup>83</sup> IPyS, July 23, 2002; *Centro de Análisis de Información*, July 23, 2002.

<sup>84</sup> FLIP, July 23, 2002.

<sup>85</sup> CPJ, August 14, 2002; IPyS, July 30, 2002.

84. On August 6, 2002, an *El Tiempo* news crew was kidnapped in the municipality of Mistrató, Risaralda department. Abducted were legal affairs editor Iván Noguera, photographer Héctor Fabio Zamora, and their driver, John Henry Gómez. The news crew was travelling in the area to report on local indigenous groups caught in the conflict between leftist rebels and right-wing paramilitaries in the region. They were intercepted on the highway by heavily armed individuals, members of the Aurelio Rodríguez Front of the Revolutionary Armed Forces of Colombia (FARC) guerrillas. The guerrillas forced the three individuals to walk into the mountains for two hours, where they were held overnight. The guerrillas reproached the journalists for the way in which the media refer to them as terrorists. They were released on the following day but did not arrive in Pereira, where the newspaper's offices are located, until August 8.<sup>86</sup>

85. On September 17, 2002, Edgar Buitrago Rico, founder and director of the monthly *Revista Valle 2000*, fled the city of Cali in fear for his life after receiving repeated death threats since May. The latest threat to Buitrago came in late August in a letter sent to the local press and politicians in Cali. It was signed by the Committee for the Rescue of Cali, a group that authorities believe was fabricated by the unidentified individuals responsible for the threats. The letter accused Buitrago of publishing lies in support of Cali's mayor, whom the journalist has backed publicly because of the mayor's alleged stand against corruption. The letter warned that Buitrago and 10 other people would be declared "military targets" unless they left the city immediately. In May, Buitrago received two death threats by e-mail. Then, in June, armed men mistook the magazine's advertising salesman for Buitrago, forced him into a vehicle, and threatened to kill him before realizing their mistake and freeing him. Based on these incidents, Buitrago sought the protection of the Ministry of Interior on August 21. Receiving no response for several weeks, he decided to leave the city. Buitrago launched *Revista Valle 2000* in 1998 as a publication dedicated to investigating and denouncing cases of political corruption in Valle del Cauca. Death threats in recent years have forced four of his volunteer correspondents to resign. Before starting the magazine, Buitrago was assistant editor of *El Caleño* and a reporter for *El País*.<sup>87</sup>

86. On October 14, 2002, a group of journalists and camera operators from several media outlets was the target of gunfire while covering confrontations between police and urban militias in the Comuna 13 neighborhood, west of Medellín. Claudia Garro of *Caracol TV*, Javier Arboleda of *El Colombiano*, Victor Vargas of *Teleantioquia*, Fernando Cifuentes of *Noticias Uno* and Carlos Franco of *RCN TV*, along with their camera operators, were hiding behind a wall near where the confrontations were taking place and attempting to get some footage of the confrontations. Shots were fired on the journalists and the journalists withdrew immediately to a nearby clinic. All of them escaped unhurt.<sup>88</sup>

87. On November 13, 2002, a bomb placed inside a vehicle exploded in front of the *RCN* radio station studios in Cúcuta. Four individuals, including a police officer, a security guard and two local residents were injured and there was material damage to some of the surrounding buildings, including the nearby home of the Norte de Santander police commander, Colonel

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<sup>86</sup> IPyS, August 8, 2002; FLIP/IFEX, August 9, 2002; CPJ, August 9, 2002.

<sup>87</sup> CPJ, September 17, 2002; IPyS/IFEX, August 21, 2002.

<sup>88</sup> FLIP, October 16, 2002; WAN, October 21, 2002.

Carlos Alberto Barragán. No *RCN* journalist or media worker was injured in the blast. No threats had been received at the radio station since the end of May, in the weeks preceding the presidential elections. Authorities have stated that they believe the police commander was the real target for the attack, but that a security perimeter around his house prevented the culprits from parking the car any closer to his house. Prior to the explosion, the assailants had reportedly fired shots at the guards stationed outside the police commander's house and then fled, leaving behind a taxi packed with 40 kilograms of explosives in front of the *RCN* studios.<sup>89</sup>

88. On November 19, 2002, a bomb that was concealed inside a suitcase was left in front of the offices of the regional newspaper *La Opinión*, located in Cúcuta, northern Santander. The attackers tried to enter the newspaper's offices, but the guards stopped them from gaining access. Since the perpetrators were unable to enter the building, they left the suitcase containing the bomb outside the main entrance and fled the scene. A guard noticed the bomb and informed the police. An anti-explosive unit deactivated the bomb, which contained 30 kilos of the explosive Anfo, the same explosive used in the November 13 bombing in front of the *RCN* radio station. Neither the newspaper nor its journalists had recently received any threats. North Santander Police Chief Colonel Barragan attributed the attack on the *La Opinión* offices to the ELN.<sup>90</sup>

89. On November 26, 2002, a taped message, allegedly recorded by the National Liberation Army (ELN) guerrillas, was delivered to the *Radio Catatumbo* station, an *RCN* radio network affiliate in Ocaña. In the message, the ELN urges the municipality's media outlets to "report impartially or else face attacks" similar to those against *RCN* radio and the daily *La Opinión* in Cúcuta. The ELN also cites a number of grievances that the ELN has with the army. *Radio Catatumbo* manager Agustín McGregor noted that after the tape was delivered, he received a telephone call from Commander "Raúl," spokesperson for the Armando Cauca Guerrero and Camilo Torres ELN divisions. The guerrilla leader threatened him with consequences if he did not air the tape in its entirety and communicate the ELN message to other media outlets in Ocaña and southern Cesar department. The tape was aired the following day.<sup>91</sup>

90. In December 2002, the Office of the Special Rapporteur was notified that journalists Roció Silva, of *Emisora ABC*, and Hernando Lozano, of *Radio Reloj Caracol*, had suffered ongoing threats and harassment from Miriam Llanos, president of the City Council (*Concejo Municipal*) of Galapa, and her mother, Yolanda Matera. These actions were in retaliation for the journalists' reports criticizing some actions of the City Council.<sup>92</sup>

### **Follow-up on the assassination of journalist Guzmán Quintero Torres**

91. In January 2002, the Criminal Judge of the Specialized Circuit of Valledupar (*Juez penal del circuito especializado de Valledupar*) also absolved Jorge Eliécer Espinel Velásquez

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<sup>89</sup> IPyS, November 14, 2002; FLIP, November 15, 2002; SIP/IAPA, November 15, 2002; *Centro de Análisis de Información*, November 20, 2002.

<sup>90</sup> FLIP, November 20, 2002; IPyS, November 19, 2002; *Centro de Análisis de Información*, November 20, 2002.

<sup>91</sup> FLIP, November 29, 2002; RSF, December 5, 2002.

<sup>92</sup> IPyS, December 5, 2002; *Centro de Análisis de Información*, November 20, 2002.



and Rodolfo Nelson Rosado, two suspects in the murder of journalist Guzmán Quintero Torres. Quintero Torres was murdered on September 16, 1999. He was the editor-in-chief of the daily *El Pílon*. Shortly before he died, he had published a series of articles denouncing homicides and abuses committed by members of the National Army. The decision absolving the two suspects was appealed by the prosecution. The appeal is currently pending.<sup>93</sup>

92. In 2002, there were a number of developments in the case of journalist Jaime Garzón's assassination. Garzón was assassinated on August 13, 1999. He was a popular journalist and critical humorist in Colombia who denounced and criticized drug trafficking, political and military corruption, and paramilitary actions. He was also involved in negotiations for the release of individuals kidnapped by the FARC and had participated as a mediator in peace talks with the ELN guerrilla. On January 13, the investigation phase of the case was closed, some press freedom groups feel too early, as the possible involvement of some members of the army was not fully investigated. In March, the Garzón case was brought to trial, after the Attorney General's Office found that there was sufficient evidence to try Carlos Castaño Gil, head of the paramilitary forces in Colombia, for having allegedly masterminded the crime. Juan Pablo Ortiz Agudelo, alias "El Bochas," and Edilberto Sierra Ayala, alias "Toño," were alleged to have carried out the assassination. On September 16, 2002, the seventh judge of the Bogotá Specialized Court stated that he would not be able to rule on the case due to lack of subject-matter jurisdiction. According to the Criminal Code, a case should be treated by a Specialized Court when the homicide is believed to have been committed "with terrorist aims or as part of terrorist activities," or if the victim "was a public official, journalist, justice of the peace, labor leader, politician or religious leader." The Specialized Court judge determined that in this case, the assassination did not occur while the victim was acting as a journalist and the motive was not connected to terrorist activity. Therefore, he did not have jurisdiction over the case and the case should be tried in an ordinary court.. On October 23, the Division of Criminal Appeals of the Supreme Court of Justice (*Sala de Casación Penal de la Corte Suprema de Justicia*) overruled the Specialized Court judge's decision, finding that the Specialized Court must hear the case because the crime had been committed with "terrorist aims."<sup>94</sup>

93. On October 2, 2002, the Barranquilla Specialized Criminal Court acquitted Alfredo de Jesús Liévano Alcocer of the murder of journalist Carlos Lajud Catalán. Lajud Catalán was murdered on March 19, 1993, in the city of Barranquilla, Atlántico department. It has been suggested that the motive of the crime was to silence his criticism about issues of corruption in the regional administration and about drug trafficking. Two other individuals were suspected of having been involved with the assassination: Enrique Sornoza, alias "Garnacha," and Bernardo Hoyos Montoya, a priest, mayor of Barranquilla on two occasions and currently a senator. However, Sornoza was assassinated in 1994 and the investigation of Hoyos Montoya's role in the crime was closed on June 5, 2002. As a result, no individuals are currently being investigated in connection to the crime. On October 11, 2002, the Attorney General's Office appealed the Specialized Criminal Court's ruling. The Lajud Catalán murder is one of the cases the Inter American Press Association (IAPA) has submitted to the Inter-American Commission on Human Rights (IACHR).<sup>95</sup>

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<sup>93</sup> IPyS, February 7, 2002, March 13, 2002.

<sup>94</sup> IPyS, March 13, 2002, October 24, 2002; *Fundación para la Libertad de Prensa (FLIP)*, August 13, 2002, September 26, 2002; SIP/IAPA, September 27, 2002.

<sup>95</sup> IPyS, June 13, 2002; SIP/IAPA, October 16, 2002.

## **Legislation**

94. On August 11, 2002, President Alvaro Uribe declared a state of "Internal Disturbance" ("*Conmoción Interior*"). Under the Colombian Constitution, such a declaration gives the president the power to issue decrees, with the force of law, suspending norms that are incompatible with it. The declaration was made in response to the grave disruptions to the public order caused by the internal armed conflict. In September 2002, President Uribe issued a presidential decree designating 27 townships in three separate departments in northern and northwestern Colombia as security zones, giving state authorities greater leverage in their battle against paramilitary soldiers and leftist guerrillas. The decree also required all foreigners traveling to the security zones to get permission from the government first. On October 24, the government clarified the process for obtaining such permission. Foreign journalists are required to fax a request to the Interior Ministry listing their employer, where they plan to visit, and the length of their stay. Foreigners found in the zone without permission could be deported. According to a government spokesperson, journalists are not to be required to reveal what they plan on reporting inside the security zones. The spokesperson added that Interior Ministry officials will be on hand 24 hours a day, seven days a week to process requests in under an hour if needed. The regulations were designed to prevent foreigners from coming to Colombia to train armed groups under the guise of being journalists. On November 25, the Constitutional Court overturned sections of the decree. The Court stated that the requirement that foreigners traveling to the zones get permission first from the government could not be applied to journalists who are already accredited. The court also ruled that other key elements in the decree, such as searches without warrants, arrests, and communications intercepts, violate the Colombian Constitution.<sup>96</sup>

## **Positive Developments**

95. On September 24, 2002, the Attorney General's Office announced that it would add 12 new prosecutors to a unit dedicated to investigating attacks against the press. The unit in the Attorney General's Office charged with investigating attacks against the press was created in May 1999. It previously had four prosecutors based in Bogotá. With the addition of the new prosecutors, the unit will have six prosecutors in Bogotá and eleven more working in seven other towns and cities throughout the country. The Attorney General's Office took this measure in response to a rising number of crimes against journalists in Colombia.<sup>97</sup>

## **COSTA RICA**

### **Follow-up on the assassination of journalist Parmenio Medina**

96. According to public information, two individuals were included in a criminal case brought by the Office of the Public Prosecutor and the Judicial Investigation Agency (OIJ) as part of an investigation into the murder of journalist Parmenio Medina on July 7, 2001. The

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<sup>96</sup> IPyS, August 12, 2002; RSF, September 18, 2002, October 26, 2002; August 12 de 2002; *Fundación para la Libertad de Prensa* (FLIP), September 20, 2002, CPJ, October 25, 2002, December 3, 2002.

<sup>97</sup> CPJ, October 30, 2002; IPyS, October 11, 2002.

source indicates that the alleged perpetrators of the crimes have been identified as Luis Aguirre Jaime and Andrés Chaves Matarrita.<sup>98</sup>

### **Positive developments**

97. In March 2002, the Legislative Assembly of Costa Rica rescinded article 309 of the Penal Code, which criminalized “insults” against the dignity of the President and other public officials.

98. On April 25, 2002, a press release by the Inter-American Commission on Human Rights (IACHR) welcomed this decision by the Legislative Assembly of Costa Rica.

### **CUBA**

99. Cuba continues to be a concern for the Office of the Special Rapporteur due to the absence of a pluralistic democracy, which translates in practice as a systematic violation of freedom of expression. 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.

### **Threats and Aggression**

100. On February 27, 2002, police and state security agents attacked *Reuters* journalists Alfredo Tedeschi and Andrew Cawthorne with batons while they covered an incident in front of the Mexican embassy in Havana.

101. According to the information received, a group of Cuban citizens used a bus to crash into the gates of the embassy in hopes of seeking asylum, according to international news reports. Police chased, beat, and detained several onlookers who had congregated outside the embassy. Two Reuters journalists were caught in the fray: Tedeschi, a cameraman, was beaten to the ground by police, and his camera was taken. Cawthorne, *Reuters'* Cuba correspondent, was beaten on the arm and back.<sup>99</sup>

102. On March 4, 2002, Jesús Álvarez Castillo, a correspondent for *CubaPress*, was covering a protest of the Cuban Foundation for Human Rights (FCDH), in the city of Ciego de Ávila, when a police officer applied a strangulation device and injured his neck.

103. On the way to the police station, Álvarez Castillo lost consciousness and had to be taken to a local hospital, where x-rays revealed a sprained cervical vertebra.<sup>100</sup>

104. The same day, several journalists and activists from the FCDH gathered in the hospital to protest the attack against Álvarez Castillo. During that gathering, several persons

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<sup>98</sup> *La Nación* de Costa Rica, at [www.nacion.co.cr](http://www.nacion.co.cr), 22 January 2003.

<sup>99</sup> Committee to Protect Journalist (CPJ), March 1, 2002.

<sup>100</sup> *Id.*, March 14, 2002.

were struck by the police, forced into police cars, and taken to the local unit of the Technical Investigations Department of the Cuban Criminal Police. The members of the group included Lester Tellez Castro, director of the independent news service *Agencia de Prensa Libre Avileña* and organizing secretary of the FCDH, and Carlos Brizuela Yera, a reporter with the independent news agency *Colegio de Periodistas Independientes de Camagüey*.<sup>101</sup>

105. According to the information received on the same day, Téllez Castro, who heads of the *Agencia de Prensa Libre Avileña* (APLA) and Brizuela Yera, who works for the *Colegio de Periodistas Independientes de Camaguey*, were beaten by police on March 4 and then detained along with eight human rights activists. They were arrested on their way to visit Jesús Alvarez Castillo, correspondent of the *Cuba Press* agency in Ciego de Avila (central Cuba), who had been hospitalized after being beaten up the same day by police.

106. Téllez Castro was transferred to a prison in Cienfuegos (west of Ciego de Avila) on March 11 and Brizuela Yera was sent to a detention center in the eastern province of Holguín. The two men are expected to be charged with "insulting behavior," as well as "causing trouble in a medical facility" and "refusing to obey instructions." APLA director Téllez Castro has been on hunger strike since March 5. The eight human rights activists were also taken to detention centers.<sup>102</sup>

107. According to information received, on March 21, 2002, state security police officers prevented the association's journalism classes in Havana from going ahead. Three independent journalists, Jorge Olivera Castillo, Dorka Céspedes Vela and Omar Rodríguez Saludes, were stopped on their way to the home of Ricardo González Alfonso, the association's president. Two other journalists, Carmelo Díaz Fernández and Victor Manuel Domínguez García, already at González Alfonso's home, were intercepted as they left by a policeman who warned them the classes were illegal. Later that night, association member Iván García Quintero was interrogated by two state security police officers about the association's activities.<sup>103</sup>

## Detention

108. On February 23, 2002, Cuban journalist Carlos Alberto Domínguez, of the *Cuba Verdad* independent press agency, was arrested. According to the information received, Domínguez was arrested at his home by four state security police and jailed first in Havana at a center run by the Technical Investigation Department (DTI), which is part of the Interior Ministry and notorious for ill-treating prisoners. The health of the journalist, who suffers from migraines and high blood pressure, deteriorated badly and since March 8 he has been held at the Mariana military hospital. Domínguez has reportedly been charged with "disturbing public order" and "refusing to obey instructions"<sup>104</sup>.

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<sup>101</sup> Id., March 1, 2002

<sup>102</sup> Reporters without Borders (RSF), March 15, 2002 and The Writers in Prison Committee (WiPC) of International PEN).

<sup>103</sup> RSF, March 28, 2002.

<sup>104</sup> Id., March 15, 2002.

109. On May 3, 2002, Garcell Pérez, of the *Agencia de Prensa Libre Oriental* (APLO) news agency, was detained and beaten for one hour. The incident occurred at the Juan Paz Camejo hospital, Sagua de Tánamo municipality, in the province of Holguín, eastern Cuba. At the time, the journalist had been recording an interview with a patient's mother for an article he was writing. According to information provided by Raúl Rivero, the regional vice-president in Cuba of the IAPA's Committee on Freedom of the Press and Information, National Police and state security officers raided Garcell Pérez's home at midnight on Friday, May 3. The officers seized five books on journalistic practices, documents, letters, magazines and the journalist's files. The journalist is the Holguín representative of the Sociedad Manuel Márquez Sterling, an association not recognized by the Cuban authorities that provides training courses for independent journalists. Garcell Pérez was released on Saturday afternoon and fined 400 pesos. He was given a warning and an official card, which identifies him as an "individual highly likely to commit a crime"<sup>105</sup>.

110. On July 30, 2002, journalist Angel Pablo Polanco of the *Servicio Noticuba* was arrested at his home in Havana. State Security officials came to his home in the early hours of the morning and searched it for several hours. According to Polanco's wife, Angela Salinas, the security officials seized technical material, many documents and money. Finally, at around 9 pm, they arrested Polanco without showing a warrant. When Polanco refused to go with them, they took him away by force. He has been detained at State Security headquarters in Villa Maristas, in Havana. His wife, who has been authorized to visit him on August 6, has said she does not know whether her husband has been charged. Polanco's arrest, which was preceded by the arrest of two government opponents the day before, comes in the run-up to a day of protest against the Castro government that had been called for August 5 by opposition organizations. Polanco was previously arrested by two State Security officials on February 23, 2000 after having published reports on the proceedings against Dr. Oscar Elias Biscet, president of the Lawton Foundation. Prior to that, Polanco was briefly held for questioning five times in 1999.<sup>106</sup>

### **State regulation**

111. On January 16, 2002, a decree was approved by the Ministry of Domestic Commerce prohibiting the sale of personal computers to individuals. According to an article published on March 25 in the digital periodical *wired.com*, Decree 383/2001 prohibits "the sale of computers, printers, duplicating machines, photocopiers, or any other instrument for large-scale printing" to any association, foundation, nonprofit civil organization, or individual. In cases where the purchase of such equipment or related spare parts or accessories is considered indispensable, authorization must be requested from the Ministry of Domestic Commerce.

112. According to the information received, this prohibition was issued after the launch of a web page by the Cuban Institute of Independent Economists—an illegal organization—(www.cubaicei.org), directed by the dissident economist Marta Beatriz Roque. Access to this web page from within Cuba was blocked on December 7, less than one week after it opened. According to the information provided, access to the Internet is strictly regulated in Cuba and

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<sup>105</sup> Inter-American Press Association (SIP/IAPA), May 7, 2002.

<sup>106</sup> Reporters Without Borders, August 2, 2002.

subject to respect for "the moral principles of Cuban society and the laws of the country." Access is restricted to foreign companies and government institutions. Two cybercafes have been set up but one is reserved for tourists, and access to the other is restricted to members of the Official Association of Cuban Writers and Artists (UNEAC).

113. Since September 2001, four post offices in Havana have offered Cubans access to the Internet and the possibility of creating an electronic address. However, navigation is limited to web pages approved by the authorities, referred to as "the Intranet."<sup>107</sup>

### Others

114. On May 5, 2002, The dissident writer Vladimiro Roca Antúnez was released, 70 days before the completion of his five-year sentence.

115. An honorary member of English PEN, Roca Antúnez, aged 59, was arrested on July 16, 1997, a month after the publication of a pamphlet entitled "La Patria es de Todos" ("The Homeland Belongs to Everyone"). In it, Roca Antúnez and his co-authors -Félix Bonne Carcasses, René Gómez Manzano, and Marta Roque Cabello – urged the Cuban government to hold democratic elections, liberalize the economy and improve human rights. All four were found guilty in March 1999 of "sedition and other acts against state security." Roca Antúnez was given the longest sentence, presumably because he was the most prominent of the four, being the son of Blas Roca, one of the founders of communism in Cuba. Roca Antúnez is the last of the four to be freed.<sup>108</sup>

116. In November 2002, Cuban authorities confiscated the files and photographs of French journalist Catherine David, who had entered Cuba on a tourist visa to report on the human rights situation and dissidents.

117. David, who works for the French weekly *Le Nouvel Observateur*, was stopped at Havana international airport on October 8 as she was going through customs with a friend who is a sculptor and photographer. They were led to a room in the airport's basement where their bags were searched thoroughly.

118. All the files on David's computer were copied. Her audio tapes containing interviews with dissidents and all her notes were confiscated. All of her rolls of film as well as several books and reports on the human rights situation in Cuba were also seized. The customs officials also copied all of the pages in David's address book. In Cuba, Law 88 of March 1999 provides for up to eight years in prison for any person assisting the foreign news media.

119. After missing their flight because of the length of the search, the two individuals were finally able to leave Cuba two days later. David's requests for the return of her material, which she has since then addressed to the Cuban customs agency, have so far been in vain.<sup>109</sup>

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<sup>107</sup> Id., March 29, 2002.

<sup>108</sup> Writers in Prison Committee (WiPC), International PEN, London, May 15, 2002.

<sup>109</sup> Reporters Without Borders (RSF), November 22, 2002.

## ECUADOR

### Legislation

120. On September 18, 2002, the Congress of Ecuador approved a series of reforms to the Law on Radio and Television. These reforms recognize the right of community radio stations to operate under the same conditions as commercial radio stations.<sup>110</sup> On November 7, 2002 the Law was published.

### Judicial actions

121. In October 2002, the First Criminal Chamber of the Supreme Court of Justice (*Primera Sala de lo Penal de la Corte Suprema de Justicia*) absolved Jorge Vivanco Mendieta, assistant editor of the Guayaquil daily *Expreso*, of criminal charges for insult and injury to honor in a case filed against him by Fernando Rosero, a deputy for the Ecuadorian Roldosista Party (PRE), in July 2001. This legal action was based on a report in which the journalist had criticized armed forces generals for not asserting their right of defense against Rosero's accusations regarding the scandal surrounding the purchase of weapons from Argentina in 1995, when Ecuador was at war with Peru. In addition to the criminal suit, Mr. Rosero filed a civil suit for libel and insults, in which the deputy sought damages totaling USD \$1,000,000. The civil action is currently pending a final judgment.<sup>111</sup> Mr. Vivanco also reported that he received threats while waiting for the verdict in these cases and requested protection from the government.<sup>112</sup>

## EL SALVADOR

### Legislation

122. On August 15, 2002, the Legislative Assembly of El Salvador approved the new National Defense Act, whose purpose is "to establish the legal, organizational and functional basis for preparing and executing national defense." Article 25 of this law provides that "Public or municipal officials and authorities and natural or legal persons must duly provide information officially requested by competent authorities for the purposes of national defense." According to the information received, on August 20, the Association of Journalists of El Salvador (APES), the Foundation for the Study of Applied Law (FESPAD) and PROBIDAD sent a letter to the President of the Republic, Mr. Francisco Flores, stating that the article in question violated the rights to freedom of expression and freedom of the press, especially because it could force journalists to reveal their sources of information in the interests of "national defense."<sup>113</sup>

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<sup>110</sup> CORAPE (*Coordinadora de Radios Populares de Ecuador*) and *Asociación Mundial de Radios Comunitarias*, (AMARC), October 4, 2002.

<sup>111</sup> *Instituto Prensa y Sociedad* (IPYS), October 15, 2002, May 29, 2002, February 5, 2002.

<sup>112</sup> *Id.*, April 23, 2002.

<sup>113</sup> *Probidad*. San Salvador, and Reporters without Borders (RSF), August 22, 2002.

123. According to the information received by the Office of the Special Rapporteur, a letter to the President dated August 20, signed by APES, the Foundation for the Study of Applied Law (FESPAD), and PROBIDAD, the President was asked to suggest that legislators amend Article 25 requiring journalists to reveal their information sources in the interests of “national defense.” In October 2002, according to the information provided by these organizations, President Francisco Flores presented his comments on the recently approved National Defense Act to the Legislative Assembly, suggesting that legislators amend the law to exempt natural and legal persons from the obligation to turn information over to the authorities for the purposes of defense.<sup>114</sup>

124. On September 26, 2002, the Legislative Assembly of El Salvador approved a package of reforms to the Court of Accounts Act (concerning the principal oversight institution in El Salvador), including an amendment to Article 46 to provide that “audit reports (...) shall be disclosed to the public as soon as a resolution of exoneration of responsibilities has been issued or the judgment of the Court of Accounts has been declared enforceable.” Previously, this article did not place any legal restriction on the disclosure of audit reports to journalists or citizens immediately following their issuance. According to the information received, with the approval of this reform, audit reports will henceforth be secret in character until responsibilities have been determined or judgments of the Court of Accounts have been declared enforceable, which normally takes several years. On October 16, 2002, President Flores approved the reforms to the aforementioned law.<sup>115</sup> This reform could impede timely access to information.

## UNITED STATES

### Judicial actions

125. On January 9, 2002, Dolia Estévez, the Washington, D.C. correspondent for the Mexican daily *El Financiero*, was ordered by the U.S. District Court for the Eastern District of Virginia to hand over materials she used in the preparation of a 1999 news article about a Mexican family allegedly linked to drug trafficking. On March 19, 2002, U.S. District Court Judge Welton Curtis Sewell granted Estévez's motion to quash the subpoena.<sup>116</sup> The plaintiff in the case appealed Judge Sewell's ruling. At the time of this writing, the appeal was still pending. The Office of the Special Rapporteur expressed its concern about this case in a press release on February 21, 2002.<sup>117</sup>

126. On July 17, 2002, David W. Carson and Edward H. Powers, Jr., publisher and editor, respectively, of *The New Observer*, were found guilty on seven counts of criminal defamation in a jury trial in Kansas. The charges stemmed from statements made in *The New Observer* about Carol Marinovich, the mayor/chief executive of the Unified Government of Wyandotte County/Kansas City, and her husband, Ernest Johnson, a district court judge.<sup>118</sup> Mr. Carson and Mr. Powers were each sentenced to pay a \$700 fine and to a year of probation.

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<sup>114</sup> Id., August 22, 2002.

<sup>115</sup> *Periodistas Contra la Corrupción*, October 8, 2002

<sup>116</sup> CPJ, April 2, 2002.

<sup>117</sup> See Annexes, PREN/53/02.

<sup>118</sup> CPJ, July 18, 2002; Inter-American Press Association (SIP/IAPA), July 19, 2002.



The sentence is suspended pending appeal of the case.<sup>119</sup> The Office of the Special Rapporteur previously expressed its concern about this case in its 2001 Annual Report.<sup>120</sup>

127. On August 2, 2002, US District Court Judge Gladys Kessler issued a decision in a suit filed by more than two dozen civil rights and public interest organizations under the Freedom of Information Act (FOIA). The groups were appealing the denial by the Department of Justice (DOJ) of requests filed with DOJ agencies to obtain information regarding the nearly 1,000 individuals detained on criminal charges, material witness warrants, and immigration violations as part of the September 11 investigation. The plaintiffs sought such information as the names of detainees, the circumstances of their arrest and detention, including dates of arrest and release, locations of arrest and detention, the nature of any charges filed, and their attorneys' names. Judge Kessler ordered the DOJ to release the detainees' names, or show that such information may validly be kept secret, and the names of their attorneys, but said that the DOJ had valid grounds to maintain the secrecy of other information regarding the arrests.<sup>121</sup> The judge's order to release the names has been stayed pending appeal.<sup>122</sup>

128. On August 26, 2002, the United States Court of Appeals for the Sixth Circuit ruled on a challenge to a directive that required that deportation hearings in "special interest cases" be closed to the press and the public, including family members and friends. At issue in the case was the Creppy Memorandum, a directive issued by Chief Immigration Judge Michael Creppy to all United States Immigration Judges on September 21, 2001. The Memorandum was intended to prevent the disclosure of information that could jeopardize national security in the aftermath of the terrorist attacks of September 11. The Court held that the Creppy Memorandum was an unconstitutional limitation on the right to freedom of speech. Noting that public access plays a significant positive role in deportation hearings because it is the main means by which the fairness of such proceedings can be monitored, the Court found that there should be a presumption of openness in these proceedings. The government's national security concerns were valid, however, any closures of proceedings had to be decided on a case-by-case basis, with particularized findings of fact as to the need for closure. The government had not met this burden because the Creppy directive did not set forth the standards used to classify a case as "special interest."<sup>123</sup> On October 8, 2002, the U.S. Court of Appeals for the Third Circuit also decided a case challenging the Creppy Memorandum and concluded that there was no constitutional right of access to deportation proceedings because these are administrative, rather than criminal, proceedings and there has not been an "unbroken, uncontradicted history" of openness in such cases.<sup>124</sup> Due to the conflict between the rulings of the two Circuit Courts, the issue is likely to be considered by the Supreme Court. According to some press freedom

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<sup>119</sup> CNN.com, December 9, 2002.

<sup>120</sup> IACHR, Annual Report 2001, vol. II, Report of the Office of the Special Rapporteur for Freedom of Expression, OEA/Ser.L/V/II.114, Doc. 5 rev. 1, at Chap. II, para. 193.

<sup>121</sup> Center for National Security Studies v. Department of Justice, Civil Action N° 01-2500 (D.D.C. filed August 15, 2002), <http://www.dcd.uscourts.gov/district-court-2002.html>.

<sup>122</sup> Reporters Committee for Freedom of the Press, August 15, 2002.

<sup>123</sup> Detroit Free Press v. Ashcroft, N° 02-1437 (6<sup>th</sup> Cir. August 26, 2002), <http://www.findlaw.com/cascode/courts/6th.html>.

<sup>124</sup> North Jersey Media Group, Inc. v. Ashcroft, N° 02-2524 (3<sup>rd</sup> Cir. filed October 8, 2002), <http://www.findlaw.com/cascode/courts/3rd.html>.

advocates, there have been at least 600 secret immigration proceedings since the Creppy Memorandum was issued.<sup>125</sup>

129. The Special Rapporteur recognizes the serious threat posed by terrorist activity and the obligation of the government to prevent and punish terrorist activity. However, the Special Rapporteur also reiterates that, in carrying out initiatives to prevent and punish terrorism, states must continue to respect fundamental human rights and freedoms. In its Report on Terrorism and Human Rights, the Inter-American Commission on Human Rights noted that access to information held by the government should be governed by the principle of "maximum disclosure," meaning that there is a presumption of openness with respect to such information.<sup>126</sup> In order to withhold information, the government must show that such withholding is necessary to protect a legitimate aim, such as national security.<sup>127</sup> Access to meetings of government bodies, such as court proceedings, should also be governed by a presumption of openness.<sup>128</sup>

### **Other**

130. On July 12, 2002, reporter Joel Mowbray of the *National Review*, was detained for 30 minutes after a State Department briefing. Guards and a federal agent demanded that Mowbray answer questions about his reporting on a classified cable concerning the U.S. system of issuing visas to Saudis. The guards who stopped Mowbray wanted to know who gave him the cable. He denied having the cable and was not searched.<sup>129</sup>

## **GUATEMALA**

### **Aggression and threats**

131. On February 1, 2002, several public prosecutors, staff members of the Criminal Investigations Service (SIC) and 10 members of the National Civil Police raided the administrative office of Carlos Victor Hugo Hernandez Rivas, the director of radio programs on *Radio La Voz de Hehuetenango* and *Radio Santa Fe*. Mr. Hernandez alleges that the officials forced their way into the office outside of the authorized hours for such raids and without a warrant, in order to search his files.<sup>130</sup>

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<sup>125</sup> Reporters Committee for Freedom of the Press, *Homefront Confidential*, Second Edition, September 2002, p. 20.

<sup>126</sup> Inter-American Commission on Human Rights, Report on Terrorism and Human Rights, OEA/Ser.LV/II.116, Doc. 5 rev. 1, October 22, 2002, para. 284.

<sup>127</sup> *Id.* para. 286.

<sup>128</sup> *Id.* para. 287.

<sup>129</sup> Reporters Committee for Freedom of the Press, *Homefront Confidential*, Second Edition, September 2002, p. 32.

<sup>130</sup> Amnesty International USA, February 2002.

132. On February 5, 2002, a group of armed men threatened Arnulfo Augustin, Guzman, general director of *Radio Sonora*, and attempted to kidnap him outside of the radio station. The men fled at the sight of a security guard, but shot at the victim's vehicle.<sup>131</sup>

133. On February 6, Deccio Serano, a photographer with the newspaper *Nuestro Diario*, and other members of the press were attacked by members of the Municipal Traffic Police (Emetra). The agents filmed the journalists as they arrived to cover a traffic dispute.<sup>132</sup> On the same day, Jose Candido Barrillas, director of the Commission on Freedom of the Press of the Association of Journalists of Guatemala (*Comisión de Libertad de la Prensa de la Asociación de Periodistas de Guatemala*, APG), was assaulted, forced into a car at gunpoint and later released.<sup>133</sup> Also on February 6, journalists Ana Lucia Ramirez and journalist Nery de la Cruz, of *Radio Sonora*, were attacked in two separate incidents.<sup>134</sup>

134. In April 2002, freelance journalist David Herrera was abducted by unknown persons as he was investigating the disinterment of clandestine graves. According to the information received, the abductors threatened to kill him and asked him for "the material," which he assumed referred to recordings of interviews taped the previous day. The journalist escaped from his abductors and felt it was necessary to go into exile.<sup>135</sup>

135. On June 7, 2002, Abner Gouz, of the newspaper *El Periódico*, Rosa María Bolaños, of the newspaper *Siglo XXI*, Ronaldo Robles and Marielos Monzón, of radio station *Emisoras Unidas*, as well as seven members of organizations for the defense of human rights, were threatened with death. In an anonymous message to the organization "Alliance against Impunity," and to several news media organizations, a group identifying itself as "los guatemaltecos de verdad" [real Guatemalans] called them "enemies of the country," and threatened to "exterminate" them.<sup>136</sup> The IACHR issued a press release strongly expressing its concern over the growing number of violent and intimidating acts perpetrated against defenders of human rights and journalists.<sup>137</sup>

136. On July 7, 2002, Adrián Zapata, a columnist with *Siglo XXI*, received a call at his home from someone identifying himself as a member of "organized crime" and warning him that he would be killed.<sup>138</sup>

137. In August 2002, the anthropologist Victoria Sandfor, of the Catholic University of Amsterdam in the Netherlands, and journalists David González and Wesley Boxed, of the U.S.

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<sup>131</sup> Id.

<sup>132</sup> Id.

<sup>133</sup> Id.

<sup>134</sup> Id.

<sup>135</sup> United Nations Verification Mission in Guatemala (MINUGUA), Thirteenth report on human rights of the United Nations Verification Mission in Guatemala, August 22, 2002, para. 30; CPJ, April 12, 2002; *Comisión de Libertad de Prensa de la Asociación de Periodistas de Guatemala*, April 18, 2002; RSF, June 10, 2002.

<sup>136</sup> Reporters without Borders, June 10, 2002.

<sup>137</sup> See IACHR, Press release N° 27/02: "THE IACHR EXPRESSED CONCERN OVER THE SITUATION OF HUMAN RIGHTS DEFENDERS IN GUATEMALA"

<sup>138</sup> *Comisión de Libertad de Prensa de la Asociación de Periodistas de Guatemala*, July 11, 2002.

newspaper the *New York Times*, received death threats from *el Kaibil* (an elite counterinsurgency corps of the Valentin Chen Gómez Army), as they were investigating the disinterment of graves in Rabinal, Baja Verapaz. The journalists accompanied the investigation team to the excavations being conducted by the *Asociación para el Desarrollo Integral de las Víctimas de la Violencia Maya Achí* (Adivima) in a clandestine burial site located in the *Instituto Experimental* (Ineba) of the aforementioned municipality, where more than 600 persons massacred in 1981 had been buried by the army and paramilitary groups.<sup>139</sup>

### Access to information

138. In July 2002, the Legislation Committee of the Congress issued a favorable opinion on a bill concerning access to information and *habeas data* prepared by the Strategic Alliance Department (SAE). The bill was assigned No. 2594 and was referred to the full Congress for discussion. In October 2002, upon second reading, the Congress approved the body of the law. To enter into force, the law must be approved after a third reading article-by-article for final revisions and then sent to the Executive Branch for signature. Once signed, it must be published in the official journal.<sup>140</sup> The Association of Guatemalan Journalists (APG) and others organizations have criticized the law for failure to take civil society opinions into account.

### Other

139. In January 2002, the Superintendency of Telecommunications (SIT) announced that it was reinitiating a call for economic bids on radio frequencies in the country.<sup>141</sup> In April, the SIT temporarily suspended the bidding process, reinitiating it on August 27, 2002 with a call for bids on 13 radio frequencies.<sup>142</sup> According to various civil society groups, this policy could make it difficult for grass-roots entities to gain access to the radio frequencies being auctioned.<sup>143</sup> It should be recalled that Principle 12 of the Declaration of Principles on Freedom of Expression provides that “The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.”

140. In February 2002, a draft Community Radio Broadcasting Act was presented to the Congress.<sup>144</sup> The bill recognizes the importance of community radio for “the promotion of national culture, development, and education” in thousands of communities throughout the country.<sup>145</sup> Given the fundamental role of community radio stations in informing society, the objective of the bill is to ensure “that they exercise the right to free expression of thought

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<sup>139</sup> *Id.*, August 23, 2002.

<sup>140</sup> SEDEM (*Seguridad en Democracia*) in a communication dated November 13, 2002.

<sup>141</sup> AMARC, January 27, 2002.

<sup>142</sup> *Consejo Guatemalteco de Comunicación Comunitaria* (CGCC), April 29, 2002; AMARC, September 9, 2002.

<sup>143</sup> *Asociación de Periodistas de Guatemala*, during the 116<sup>th</sup> Period of Sessions of the IACHR, October 2002.

<sup>144</sup> *Consejo Guatemalteco de Comunicación Comunitaria* (CGCC) and *Asociación Mundial de Radios Comunitarias* (AMARC), February 4, 2002.

<sup>145</sup> *Propuesta de Ley de Radiodifusión Comunitaria*, January 2002, *Exposición de motivos*, p.2.

through the use of radio broadcast frequencies under equal conditions."<sup>146</sup> This bill remains under consideration by Congress.

141. In September 2002, Government Agreement 316-2002 was issued. By means of this agreement, the government announced that it would award concessions, free of charge, for nine national and regional radio frequencies to civil society institutions and associations.<sup>147</sup> The Guatemalan Council on Community Communication rejected this agreement, which it considered an obstacle to access by indigenous peoples to available radio frequencies, running counter to the democratic spirit that should characterize the allocation of radio frequencies.<sup>148</sup>

142. The Office of the Special Rapporteur has received with concern a number of complaints about a campaign to discredit media organizations that criticize the actions of public officials. Information has also been received alleging that this campaign has been accompanied, *inter alia*, by decisions to bar access by the press to public events and citations by the Solicitor General of the Nation against journalists to force them to reveal their sources. This information was received in late 2002. The Office of the Special Rapporteur will carefully follow developments in this situation.

### **Positive developments**

143. The Office of the Special Rapporteur notes with satisfaction that on January 23, 2002, the Constitutional Court provisionally declared the partial unconstitutionality of the Law on Mandatory Membership in Professional Associations (*Ley de Colegiación Profesional Obligatoria*). By decree 72-2001, the Court established that the compulsory character of this legislation applied to all professions, with the exception of journalists. It should be noted that contrary to the ruling of the Inter-American Court with respect to freedom of expression, the Guatemalan Congress, on November 30, 2001, approved the Law on Mandatory Membership in Professional Associations, requiring that all journalists possess a university degree and be a member of the association of journalists in order to practice their profession.<sup>149</sup>

### **HAITI**

144. In May and August of 2002, the Special Rapporteur for Freedom of Expression, Eduardo A. Bertoni participated together with the Inter-American Commission on Human Rights in two on site visits to Haiti with the objective of evaluating the state of freedom of expression in that country. During the visits, the Special Rapporteur met with the President of Haiti, Jean-Bertrand Aristide, state officials, judges, civil society organizations, journalists and the media.

145. The Special Rapporteur notes that human rights defenders and journalists are increasingly at risk in Haiti. Since the killings of prominent journalists Jean Dominique in April 2000 and Brignol Lindor on December 3, 2001, freedom of expression has been severely undermined and a number of journalists and human rights defenders have been attacked or killed. The Special Rapporteur for Freedom of Expression expressed deep concern regarding

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<sup>146</sup> *Id.*

<sup>147</sup> *Acuerdo Gubernativo Número 316-2002*, September 10, 2002, Article 2.

<sup>148</sup> *Consejo Guatemalteco de Comunicación Comunitaria (CGCC)*, September 25, 2002.

<sup>149</sup> *Prensa Libre*, January 24, 2002.

the murders, threatening, and harassment of journalists, which are creating adverse conditions for the exercise of the right to freedom of expression in Haiti. Additionally, the Special Rapporteur expresses concern over reports received from many journalists expressing that President Jean-Bertrand Aristide's June 2001 announcement of a "Zero Tolerance" campaign, ostensibly designed to crack down on crime, might encourage the sort of extrajudicial mob action that killed Lindor.

146. The Special Rapporteur received information on the status of inquiries into the murder of radio reporter Jean Léopold Dominique in April 2000, an investigation that has been fraught with irregularities, including threats and intimidation of judges and witnesses that have led to several judges resigning, including Judge Claudy Gassant. The Special Rapporteur points out once again that behavior of this kind constitutes an indirect form of curtailing freedom of expression, since it creates a terrifying environment for other social communicators, who are frightened to denounce further attacks. During the visit, Bertoni requested that efforts should be intensified to ensure progress in the investigation into who killed and who ordered the murder of Dominique. The Special Rapporteur was also briefed on the inquiries into the murder of the news editor for *Radio Eco 2000*, Brignol Lindor, in December 2001. In the Special Rapporteur's opinion, the slow pace of the investigation is a cause for concern. Bertoni voiced these concerns at a meeting with the judge in charge of the investigation, Fritzner Duclaire. The Special Rapporteur also requested the judge to take the necessary steps to protect witnesses and other people involved in the investigation.

147. The following information summarizes information received over the past year by the Office of the Special Rapporteur. It should be noted that the incidents referred to in this section do not in any way constitute the complete report of all of the complaints received by this Office. It is merely a series of examples that indicate the seriousness of the situation in Haiti.

### **Threats and Aggression**

148. On January 7, 2002, Guyler Delva, secretary-general of the Haitian Journalists' Association (AJH), reported that a dozen journalists working for different media outlets in Port-au-Prince had left the country for the USA or France. These journalists, who had covered the attempted *coup* against President Aristide last December 17, had taken refuge in certain diplomatic missions in Port-au-Prince. According to their testimonies, some members of popular organizations close to the Lavalas Family government had exerted pressure and issued threats against members of the press, accusing them of favoring the opposition.

149. Robert Philomé, the top news presenter at *Radio Vision 2000*, fled the country after receiving threats from pro-Aristide protesters. Colleagues from *Radio Caraïbe*, *Galaxie* and *Signal FM* have also reported having received threats against their lives.

150. In addition, four provincial journalists have fled to the capital and are in hiding after being threatened by government supporters. The four are: Charité André and Rémy Jean of *Radio Eben-Enzer*; Duc Jonathan Joseph, *Radio Métropole* correspondent in Gonaïves; and Ernst Océan, *Radio Vision 2000* correspondent in Saint Marc.<sup>150</sup>

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<sup>150</sup>World Association of Newspapers and the World Editors Forum, January 31, 2002.

151. On January 21, 2002, members of the Young People's Power Organization (JPP), which has political ties to the ruling party, gave Guyler Delva, secretary-general of the Haitian Journalists' Association, 48 hours to withdraw a legal complaint he had lodged against JPP leader René Civil, otherwise they would "teach him a lesson." Mr Delva lodged a complaint against Mr. Civil on January 18, after being threatened on a January 15 radio program, during which Mr. Civil accused Mr. Delva of being "on the payroll of foreigners" and "betraying his fellow Haitians." On January 11, Figaro Désir, leader of the pro-government organization Bale Wouze, called Mr Delva "a traitor in the service of white foreigners" and threatened to have him "necklaced" (a euphemism for setting him on fire). Mr Désir retracted his threats on January 21, saying that his earlier remarks had been misinterpreted.

152. On February 22, 2002, Patrick Merisier, a radio broadcaster and human rights worker from the National Coalition for Haitian Rights (NCHR), was shot in the chest and arm by two men as he waited to be served in a restaurant in Port-au-Prince. Prior to this, in January 2002, he had received anonymous threats that he would be killed if he did not stop his human rights monitoring and broadcasts.<sup>151</sup>

153. On December 25, 2002, two armed men appeared at the gates of Montas' house in Pétienville, a suburb of Port-au-Prince, in the late afternoon a few minutes after she had arrived at home. They threatened her security guards, who immediately shut the gates. One of the guards ran to the house to get a gun. The attackers then fired at the second guard, fatally wounding him before fleeing.

154. As the gunmen fled on foot, police cordoned off the area outside Montas' house to investigate. No arrests have been made at this time.<sup>152</sup>

155. On January 8, 2003, the Inter-American Commission on Human Rights issued precautionary measures requesting the Government of Haiti to take the necessary measures to protect the personal integrity of Montas and to investigate the attacks against her.

156. On July 16, 2002, human rights defender Sylvie Bajoux was attacked in her home in the Péguenville area of the capital, Port-au-Prince. The organization Amnesty International reported that this attack may have been aimed at trying to prevent Mrs. Bajoux and her husband and other human rights defenders and journalists from carrying out their work.

157. The attack occurred at around midday, when three armed men broke into the house where Sylvie Bajoux lives with her husband Jean Claude. The assailants reportedly beat and tied up the three employees of the Bajoux who were in the house at the time. One of them then reportedly approached Sylvie Bajoux with his gun in his hand, knocked her onto the ground and struck her on the back. The attackers also stole some small items from the house and then left, leaving the staff and Sylvie Bajoux tied up in the house.

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<sup>151</sup> National Coalition for Haitian Rights (NCHR), February 2002.

<sup>152</sup> The Committee to Protect Journalists (CPJ), December 27, 2002.

158. Both Sylvie and Jean Claude Bajeux are long-term human rights defenders. They currently run the Ecumenical Center for Human Rights (*Centre Oecuménique des droits humains*, CEDH).<sup>153</sup>

159. On September 26, 2002 the privately-owned Port-au-Prince station *Radio Kiskeya* stopped broadcasting and evacuated its offices after being told that the building was to be burned down that evening. The station also received several threatening phone calls and faxes. *Reuters* news agency said the threats came after the station's coverage of the arrest of the head of an organization defending the rights of thousands of people who recently lost money in a collapsed pyramid scam based on traditional cooperatives. The station resumed broadcasting the next day. Also on September 26, another Port-au-Prince radio station, *Caraïbes FM*, decided to stop broadcasting news for several hours in protest against threats it had received, apparently from pro-government organizations. The next day, Roger Damas, of *Radio Ibo*, was attacked by three strangers when he arrived at the radio station. He said they threatened to burn it down.<sup>154</sup>

160. On November 21, 2002, *Radio Etincelle* suspended broadcasting after militants of the Popular Organization for the Development of Raboteau (commonly known as the "Cannibal Army"), a heavily armed popular group that supports President Jean-Bertrand Aristide, accused the station of "working for the opposition" and threatened to burn down its studio. Four days later, on the evening of November 25, unidentified assailants set fire to *Radio Etincelle's* station, damaging property, including a generator and other equipment. Meanwhile, on November 28, unidentified attackers opened fire outside a Gonaïves hotel while a local press freedom organization, the Association of Haitian Journalists (AJH), was meeting with a group of threatened radio correspondents and police officials to discuss how to improve security conditions for journalists. No one was killed in the attack, but it remains unclear how many people may have been injured.<sup>155</sup>

161. On November 30, 2002, seven journalists from the northern town of Gonaïves fled to Port-au-Prince to seek refuge. Esdras Mondélus, head of *Radio Etincelle*; Henry Fleurimond, of *Radio Kiskeya*; Renais Noël Jeune, Jean Niton Guérino and Gédéon Présandieu, all reporters with *Radio Etincelle*; René Josué, of *Signal FM*; and Jean-Robert François, of *Radio Métropole* took refuge in Port-au-Prince after receiving threats from the "Cannibal Army," a pro-Aristide militia. According to the information received, the seven journalists, all based in Gonaïves, had been in hiding there since November 21, first at the bishop's house, which they were forced to leave on November 28 by Church officials who feared it would be attacked. The next day, the hotel they had moved to was fired at by members of the Cannibal Army, an armed group close to the country's ruling Fanmi Lavalas party. The journalists then fled to the northern city of Cap Haitien and the next day flew to Port-au-Prince with the help of the Haitian Journalists' Association (AJH).

162. They had been threatened by the leader of the Cannibal Army, Amiot Métayer, for their reporting of demonstrations calling for the resignation of President Jean-Bertrand Aristide.

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<sup>153</sup> Amnesty International.

<sup>154</sup> Reporters Without Borders, Sept. 30, 2002.

<sup>155</sup> The Committee to Protect Journalists (CPJ), December 2, 2002.



Métayer was prosecuted for physically attacking opposition supporters in December last year. He escaped from prison in August this year and the government says it has not rearrested him so as to avoid a bloodbath. A report of the AJH informed that 64 journalists had been threatened so far this year, 62 of them by the government and two by the opposition.<sup>156</sup>

163. On December 6, 2002, the Inter-American Commission on Human Rights issued precautionary measures on behalf of the seven journalists and gave the Government of Haiti 15 days to respond with information regarding the measures taken to protect the lives of the journalists and the steps adopted in order to conduct an investigation of the attacks. Up to this date, the Commission have received no answer from the State.

### **Kidnapping**

164. On July 15, 2002, Israel Jacky Cantave, an investigative reporter for the Port-au-Prince-based station *Radio Caraïbes* was kidnapped. He and his cousin were apparently attacked as they were driving home from work. The pair were found alive in the Port-au-Prince suburb of Petite Place Cazeau on July 16, beaten and bound with duct tape. They had reportedly been seized by a group of armed men who forced their vehicle to stop before abducting them. According to local sources, Israel Jacky Cantave had received several death threats in the days preceding the attack. These were reportedly believed to be linked to his investigative work in the Cité Soleil and La Saline slum areas of the capital, areas of heavy drug trafficking and gang activity.<sup>157</sup>

### **Arrests**

165. On May 27, 2002, two reporters, Darwin Saint Julien of the weekly newspaper *Haïti Progrès* and Allan Deshommes of *Radio Atlantik*, were seriously injured and then arrested by police while covering a demonstration organized by the Workers' Struggle (*Batay Ouvriyé*) group in the northern town of Saint Raphael. Armed men, apparently sent by a major local landowner, and local officials attacked the protesters, killing two people, while seven other persons were arrested, including the journalists. The reporters were told they were being arrested "for their own protection." Despite their serious injuries, they were imprisoned. On May 29, all seven incarcerated persons were taken by helicopter to the capital, Port-au-Prince, and transferred to the National Penitentiary. The journalists have not been charged with any crime and were being held illegally, beyond the two-day period in which charges have to be made.<sup>158</sup>

## **HONDURAS**

### **Threats and aggression**

166. On October 24, 2002, a number of journalists were attacked and some suffered injuries while covering a protest in Tegucigalpa. The protesters, members of the organizations

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<sup>156</sup> Committee to Protect Journalists (CPJ), December 5, 2002.

<sup>157</sup> Reporters Without Borders (RSF), July 17, 2002.

<sup>158</sup> *Id.*, June 4, 2002.

*Bloque Popular*, the *Colegio de Profesores de Educación Media de Honduras* (COPEMH) and the *Sindicato de Trabajadores del Servicio Nacional de Acueductos y Alcantarillados* (SANAA), apparently destroyed part of a barrier that the police had constructed around the Congress. The police used various means to subdue the crowd, including gas grenades, a water tank, anti-riot shields, and warning gunshots. The crowd counterattacked with sticks and rocks. As a result, *Channel 11* cameraman Edwin Murillo was hit by police officers on his arms and his left shoulder. In addition, they destroyed his equipment, which was valued at more than \$18,000. Mario Fajardo, a photographer with *La Tribuna*, was injured in the mouth by a rock. The cameraman from *TN5*, Carlos Lagos, was also injured by a rock that hit him in the leg. Among the other journalists, cameramen, and photographers that were attacked were: Estalin Irías (*El Herald*); Segio Flores (*Canal 63*); Miguel Osorio (*TN5*); Aldo Enrique Romero (*TVC*); Jorge Méndez Carpio (*Canal 36*); Onan Figueroa (*66*); Jessenia Bonilla (*Canal 11*); Carlos Paz (*Radio Reloj*); Jimmy Alvarado (*Canal 63*); Jairo Amador (*Canal 13*); and Jorge Valle (*HONDURED*).<sup>159</sup>

### **Judicial actions**

167. In May 2002, the Office of the Special Rapporteur was notified of a pending legal action against journalist Sandra Maribel Sánchez of *Radio América*. Ms. Sánchez broadcast a tape that contained conversations between Vera Sofía Rubí, a former comptroller and minister of Interior and Justice, and a former president of the Supreme Court of Justice. During the conversation, Ms. Rubí promised, at the judge's request, to put pressure on her brother, a magistrate, to help resolve a case in a certain way. Ms. Rubí, in turn, asked the judge to give priority to cases of a political nature. In the course of the conversation, the two also mocked the Attorney General of the Nation. After the tape was aired, Ms. Rubí filed a judicial complaint against Ms. Sánchez for espionage.<sup>160</sup>

168. Beginning in March 2002, six journalists from *La Jornada* were summoned for questioning by the Attorney General's Office (PGR) in relation to two cases being investigated by the PGR. The journalists had reported on aspects of these cases in *La Jornada* and were being asked by the PGR to reveal their sources. One of the journalists, Gustavo Castillo, was told that he could not invoke his right to maintain the confidentiality of his sources because he had been summoned as a witness. Mr. Castillo was also denied access to legal advice from an attorney during the interrogation.<sup>161</sup> It is important to recall that the Declaration of Principles on Freedom of Expression establishes in Principle 8 that "Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential."

## **MEXICO**

### **Assassination**

169. On January 18, 2002, Félix Alonso Fernández García, editor of the weekly *Nueva Opción* was shot dead in Miguel Alemán city, in Tamaulipas State (north-eastern Mexico). According to information gathered, the journalist had recently reported in *Nueva Opción* on

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<sup>159</sup> *Comité para la Libertad de Expresión* (CLIBRE) and *Periodistas Frente a la Corrupción* (PFC), October 27, 2002.

<sup>160</sup> *Periodistas Frente a la Corrupción* (PFC), May 16, 2002.

<sup>161</sup> *Sindicato de Trabajadores de La Jornada*, November 18, 2002.

alleged relations between former Mayor Raúl Rodríguez Barrera and drug traffickers. In 2001, the journalist had informed police of these relations. A few days before his death, the journalist had accused the former mayor of wanting to kill him.<sup>162</sup>

### Threats and Aggression

170. On January 10, 2002, journalist Jesús Blancornelas reported that he had received death threats by e-mail from an unknown source. Blancornelas, director of the weekly periodical *Zeta*, has been investigating and publishing articles on drug trafficking in Mexico, especially in Tijuana, a city bordering on the United States where a drug cartel is operated by the Arellano Félix brothers. On November 27, 1997, Blancornelas was violently assaulted, causing the death of his bodyguard and one of the assailants, a gunman paid by the drug cartel operated by the Arellano Félix brothers.<sup>163</sup>

171. In February 2002, journalist Eduardo Ibarra Aguirre, the director of *Forum* magazine, reported that he had received telephone threats and that a robbery had again been attempted at his offices. According to the information provided, *Forum* magazine had been the target of harassment following the publication of articles by General Francisco Gallardo Rodríguez. On December 4, 2001, the magazine's offices were attacked, and the electronic files containing the articles published by General Gallardo were taken.<sup>164</sup>

172. On March 7, 2002, Fredy Martín Pérez López, a correspondent for the newspaper *El Universal* and the Italian agency ANSA, was assaulted by police officers in San Cristóbal de las Casas, as he was covering confrontations between the police and the indigenous population.<sup>165</sup>

173. On June 24, 2002, Irving Lefor Magaña, a camera technician for *Telemundo*, a local cable channel, was hospitalized after being attacked by members of the municipal police of Pachuca, capital of the state of Hidalgo (in the North). He suffered a fracture in the left leg. These events took place as the camera technician and another 20 reporters and journalists from different media organizations covered the action taken by the *Secretaría de Seguridad* against demonstrators from the Farm Workers' Union (UNTA), which minutes before had blocked the Insurgentes highway interchange. The journalist filed criminal charges.<sup>166</sup>

### Assaults

174. On April 3, 2002, the offices of the weekly periodical *Páginas*, in Tuxtla Gutierrez (Chiapas) was the target of gunfire. According to the information collected, a number of individuals fired on the offices of *Páginas*, which is published in the city of Tuxtla Gutierrez

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<sup>162</sup> Reporters without Borders (RSF), Paris, January 25, 2002; *Seccional Latinoamericana de Derechos Humanos de la Federación Internacional de Periodistas* (FIP), Lima December 30, 2002; Writers in Prison Committee International (PEN) January 31, 2002. Inter-American Press Association (SIP/IAPA), "Mexican Journalist Murder," January 2002.

<sup>163</sup> Inter-American Press Association (SIP/IAPA), January 17, 2002.

<sup>164</sup> *Comisión Mexicana de Defensa y Promoción de los Derechos Humanos*, March 1, 2002.

<sup>165</sup> Reporters without Borders (RSF), April 9, 2002.

<sup>166</sup> *Id.* and *Centro Nacional de Comunicación Social* (CENCOS), 26 June 2002.

(Chiapas), and threatened the staff. According to the directors of the periodical, the attack could be linked to the periodical's critical tone in referring to the authorities.<sup>167</sup>

### Judicial actions

175. On April 1, 2002, Raquel Urbán Hernández, of the weekly periodical *Reporteros Informando*, published in the city of Ecatepec (state of Mexico), was arrested. The journalist was released the same day, after posting bail of 22,000 pesos (EUR2,800). The arrest took place as a result of a complaint filed in January 2002 by Alejandro Gamiño Palacios, a legislator of the party in power, the National Action Party (*Partido de Acción Nacional*, PAN), who charged the journalist with "defamation." On November 26, 2001, Raquel Urbán Hernández had reported on the alleged implication of the legislator in a case involving the rape of a minor.<sup>168</sup>

176. On March 11, 2002, María Esther Martínez, of the newspaper *La Unión de Morelos*, published in the state of Morelos, was arrested in the city of Xochitepec, Morelos. According to the Independent Human Rights Commission of Morelos, a civil organization for the defense of human rights, the journalist, who was accused of defamation, was arrested after criticizing the Office of the Solicitor General of the State and the Ministerial Police. She was released that same day.<sup>169</sup>

177. On May 8, 2002 Alejandro Junco de la Vega, president and publisher of the Mexico City daily *REFORMA* appeared before a public prosecutor in Mexico City to respond to criminal defamation charges brought against him by a local politician. The journalist was charged over an article alleging that Carlos Galán Domínguez, a member of the Mexico State Chamber of Deputies, had received improper payments from the Chamber. Galán filed criminal defamation charges against Junco and the two reporters. If convicted, all three journalists could face up to three years in prison.<sup>170</sup>

178. In August 2002, charges were filed with the Office of the Attorney General against journalist Hermén Macías López, director of the newspaper *Lo Nuestro*, of the city of Cadereyta Jiménez in the state of Nuevo León, by Hilario Vega Zamapirra, union leader for *Petróleos Mexicanos* and alternate federal deputy for the Second District of Nuevo León. The journalist was accused of defamation and sued for US\$195,000 in damages and closure of the newspaper *Lo Nuestro*. On 22 August, *Lo Nuestro* published a report showing that the union leader's parental lineage was not as he had claimed, i.e. that his family had been engaged in the oil business for generations. *Lo Nuestro* had been following the activities of the union leader and how his personal fortune had increased as a result of corrupt practices.<sup>171</sup>

179. On August 19, 2002, journalist Isabel Arvide was arrested by the Chihuahua state police on charges of criminal defamation. She was detained for more than 24 hours and released after paying a bail of 100,000 Mexican pesos (US\$10,000). Judge Armando Rodríguez

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<sup>167</sup> Id., April 9, 2002.

<sup>168</sup> Reporters without Borders (RSF), April 9, 2002.

<sup>169</sup> Id.

<sup>170</sup> Committee to Protect Journalists (CPJ), May 10, 2002, Inter-American Press Association (SIP/IAPA), May 8, 2002.

<sup>171</sup> *Periodistas Frente a la Corrupción* (PFC), October 7, 2002.

Gaytán of the Second Penal Court in the district of Morales has charged Arvide with criminal defamation. According to Mexico's Criminal Code, Arvide faces six months to two years in prison if convicted. The charges follow a June 2 article by Arvide that appeared on the journalist's own Web site, [www.isabelarvide.com](http://www.isabelarvide.com), and in the daily, *Milenio*, which is published in Mexico City. In the article, Arvide accused Osvaldo Rodríguez Borunda, the executive director and publisher of the Mexican newspaper *El Diario de Chihuahua*, of involvement with drug trafficking and money laundering.<sup>172</sup>

180. On 17 October 2002, the Office of the Solicitor General of the State of Chihuahua requested that the judge of the Fourth Criminal Chamber, Catalina Ruiz Pacheco, order the arrest of the director and seven reporters of the newspaper *Norte de Ciudad Juárez*, who were accused of defamation by the former municipal president Manuel Quevedo Reyes. The same day, according to an article published on 18 October by *Norte de Ciudad Juárez*, Judge Catalina Ruiz Pacheco agreed to consider the possibility of issuing a warrant for the arrest of the director and seven reporters as requested by the Office of the Solicitor General. In his suit, filed in January 2002, the former municipal president asked for damages in the amount of 50 million pesos and closure of the newspaper. Quevedo Reyes filed a suit against the paper's director, Óscar Cantú, and reporters Armando Delgado, Manuel Aguirre, Guadalupe Salcido, Rosa Isela Pérez, Francisco Luján, Antonio Flores and Carlos Huerta, following the publication of an article entitled "Patricio's Invoices," and other follow-up reports revealing the alleged participation of Quevedo in the sale of 220 hectares expropriated by Governor Patricio Martínez. In response to the charges brought by the Office of the Solicitor General, the accused journalists reserved the right to file a statement, after requesting copies of the charges filed by Quevedo, which were not provided to them by the officer of the Office of the Attorney General, Sergio Villarreal Arellano, who had issued the warrant for their arrest.<sup>173</sup>

181. Between March and November 2002, the Office of the Solicitor General of the Republic (PGR) brought charges against journalists from the newspaper *La Jornada* who had investigated cases of corruption by former president Carlos Salinas de Gortari and the diversion of millions of pesos in funds from *Petroleos Mexicanos* (PEMEX) to the presidential campaign of the *Partido Revolucionario Institucional* (PRI). Among the journalists charged were Enrique Méndez, Gustavo Castillo, Rubén Villalpando Andrea Becerril, Ciro Pérez, Roberto Garduño, and Pedro Juárez Mejía, all of *La Jornada*. According to the information received, the authorities' principal motivation for interrogating the journalists related to their investigations and sources of information.<sup>174</sup>

182. On 16 December 2002, Francisco Guerrero Garro and Fabiola Escobar, director of and reporter for *La Jornada de Morelos*, respectively, were subpoenaed to testify by the Office of the Solicitor General of the State. The subpoena was issued to inquire into reports published in that newspaper as part of the preliminary investigation conducted by the Solicitor General's Office in certain criminal cases.<sup>175</sup>

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<sup>172</sup> Committee to Protect Journalists (CPJ), August 19, 2002 and *Centro Nacional de Comunicación Social*, August 21, 2002.

<sup>173</sup> *Periodistas Frente a la Corrupción* (PFC), October 23, 2002, and *Libertad de Prensa*, October 22, 2002.

<sup>174</sup> *Sindicato de trabajadores de La Jornada* and *Centro Nacional de Comunicación Social* (CENCOS), November 18, 2002, and *Periodistas Frente a la Corrupción* (PFC), November 29, 2002.

<sup>175</sup> *Periodistas Frente a la Corrupción* (PFC), December 23, 2002.

## **Censorship**

183. In October 2002, according to the information received, the state government of Baja California canceled official publicity in the newspaper *La Crónica* and hindered the access of journalists to public information. After publishing reports on alleged corruption involving the Governor of Baja California, Eugenio Elorduy Walther, *La Crónica*, which is part of the *Periódicos Healy* newspaper chain operating in the states of northwestern Mexico, published several complaints about irregularities in recent months compromising the Governor: irregular purchases of vehicles, nepotism, and salary increases for government officials.<sup>176</sup>

## **Positive developments**

184. On 30 April 2002, Congress approved the Federal Government Information Transparency and Access Act. The law enables citizens to gain access to state-held documents and information. The Office of the Special Rapporteur issued a press release welcoming this initiative, but will continue to monitor closely the implementation of this law.

## **NICARAGUA**

185. During the year 2002, the Office of the Special Rapporteur received information accounting for an improvement in the overall situation of freedom of expression in Nicaragua. Nevertheless, the Office presents below other information received during the year 2002.

## **Aggression and threats**

186. In March 2002, Arnaldo Alemán, President of the National Assembly and former President of the Republic, insulted journalists Claudia Sirias, of *Channel 2* television, and Vilma Areas, of Radio La Primerísima, during a press conference when they asked him about acts of corruption in which he was allegedly involved.<sup>177</sup>

187. Also in March 2002, Mr. Alemán tried to prevent the media from covering the visit of Kofi Annan, Secretary General of the United Nations, to the Plenary of the National Assembly.<sup>178</sup>

188. On March 12, 2002, Arnaldo Alemán presented a police complaint against Octavio Sacasa, the owner of *Channel 2*. Mr. Alemán claimed he had received death threats from Mr. Sacasa, although there was apparently no evidence of this. Mr. Alemán has frequently tried to intimidate the press through verbal aggression and other means.<sup>179</sup>

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<sup>176</sup> Inter-American Press Association (SIP/IAPA), October 18, 2002.

<sup>177</sup> *Centro Nicaragüense de Derechos Humanos* (CENIDH) in a letter dated July 26, 2002; PFC, October 25, 2002.

<sup>178</sup> *Id.*, July 26, 2002.

<sup>179</sup> *Periodistas Frente a la Corrupción* (PFC), March 18, 2002; and *Centro Nicaragüense de Derechos Humanos* (CENIDH) in a letter dated July 26, 2002.

189. The Office of the Special Rapporteur has received information regarding an alleged campaign by the hierarchy of the Catholic church to discredit media that have reported on the presumed participation of some priests in acts of corruption committed by the previous government. In this context, journalist Marianela Flores Vergara, a correspondent with *El Nuevo Diario* and *Telediario 10*, was physically attacked by Bishop Bosco César María Vivas Róbelo while she was trying to interview him.<sup>180</sup>

190. On July 18, 2002, Luis Felipe Palacios, of the newspaper *La Prensa*, was summoned and interrogated by the police after he published an article that implicated a high official of the army in acts of corruption. He was asked to reveal his sources. The Chief of Police, Edwin Cordero, justified the summons and interrogation saying that the police can act without a judicial order in cases of narcotrafficking. Manuel Esquivel, a cameraman from *La Prensa*, was accompanying Mr. Palacios and took pictures during the interrogation. Police threatened to detain Mr. Esquivel for taking pictures without permission and forced him to expose the roll of film he was using.<sup>181</sup>

191. On October 22, 2002, Tirso Moreno stormed into the offices of the daily *La Prensa*, fired two pistols, and threatened to kill several editors. Mr. Moreno is a former member of the now defunct counter-revolutionary Resistencia Nicaragüense (Contras), that fought against the Sandinistas in the 1980s. No one was injured in the incident and after a few hours, Moreno gave himself up to police. This incident took place within the context of intimidation of the press by other former Contras and supporters of former President Arnoldo Alemán's. Mr. Alemán, members of his family, and former members of his cabinet are facing accusations of crimes corruption that were exposed by the media.<sup>182</sup>

### **Indirect restrictions**

192. In June 2002, a group of about one hundred journalists protested outside of the Presidential Palace to demand that the government of Enrique Bolaños address the problem of the distribution of official publicity. According to the information received, the government heavily favors the television and print media with the widest audiences when allocating official publicity funds. This is particularly detrimental to small radio stations, some of which have had to shut down for financial reasons.<sup>183</sup>

## **PANAMA**

### **Judicial actions**

193. In its 2001 Annual Report, the Office of the Special Rapporteur expressed its concern about the use of defamation and libel suits in Panama to silence criticisms made by some journalists and media outlets about the activities of government officials and other public

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<sup>180</sup> Centro Nicaragüense de Derechos Humanos (CENIDH) in a letter dated July 26, 2002; PFC, October 25, 2002.

<sup>181</sup> *Reporteros Sin Fronteras* (RSF), July 23, 2002; PFC, October 25, 2002 and Centro Nicaragüense de Derechos Humanos (CENIDH) in a letter dated July 26, 2002.

<sup>182</sup> *Periodistas Frente a la Corrupción* (PFC), October 29, 2002.

<sup>183</sup> Centro Nicaragüense de Derechos Humanos (CENIDH) in a letter dated July 26, 2002.

persons. In response to these criticisms and those of domestic and international NGOs, the Defensoría del Pueblo of Panama created a Special Delegate on Freedom of Expression with the objective of bringing Panamanian laws on freedom of expression into line with international human rights standards. As a first step toward this goal, the Special Delegate produced a report to analyze the scope of this problem. The report includes a detailed listing of criminal libel and slander proceedings instituted against journalists and others who express themselves through the media since 1995.<sup>184</sup> According to the report, there have been 90 cases for criminal defamation or libel since 1995; 78 of these were against journalists, social communicators, or media collaborators.<sup>185</sup> Of the 90 total cases, there have been guilty verdicts in 13, absolutions in 6, stays (*sobreseimientos*) in 23, and in 5 cases the complainant ceased pursuing the case (*desistimientos*). 47 of these cases were presented by public officials. In 2002, 17 cases were initiated.<sup>186</sup> These statistics show a clear pattern of the use of defamation and libel laws to silence criticism of the administration of public affairs.

194. The Office of the Special Rapporteur has been following some cases in particular, receiving information from a variety of sources.

195. On May 23, 2002, independent journalist Miguel Antonio Bernal was absolved of criminal charges of libel and slander by the Juzgado Decimo de Circuito de lo Penal del Primer Circuito Judicial de la Provincia de Panama. The case against Mr. Bernal was initiated on May 16, 2001 by José Luis Sosa, who was then the director general of the National Police. Mr. Sosa accused Mr. Bernal of having affected “the honor and dignity of a public institution, namely the National Police” when he reported on the decapitation of four prisoners who had attempted to escape from the penitentiary on Coiba island.<sup>187</sup> The State appealed the judgment absolving Mr. Bernal. On October 25, 2002, the Second Superior Tribunal of the First Judicial District (*Segundo Tribunal Superior del Primer Distrito Judicial*) affirmed the judgment of the court of first instance absolving Miguel Antonio Bernal of the crime of libel and slander.<sup>188</sup>

196. On June 7, 2002, cartoonist Victor Ramos of *La Prensa* was ordered to appear in court on charges of damaging the reputation of former president Ernesto Pérez Balladares in a cartoon he had published in April. The cartoon listed a number of scandals that had been linked to Pérez Balladares throughout his political career. The case is currently in the investigation stage.<sup>189</sup>

197. On July 1, 2002, Ubaldo Davis, publisher and editor of the weekly *La Cascara News*, was found guilty of criminal defamation and sentenced to 14 months in prison, which

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<sup>184</sup> See *Defensoría del Pueblo de la República de Panamá, Informe Especial: Democracia, Libertad de Expresión y Procesos contra el Honor*, December 2002.

<sup>185</sup> *Id.* at *Anexos, Estadísticas Generales*.

<sup>186</sup> *Id.*

<sup>187</sup> See Office of the Special Rapporteur for Freedom of Expression Annual Report 2001, p.53-54.

<sup>188</sup> *Defensoría del Pueblo de la República de Panamá, Informe Especial: Democracia, Libertad de Expresión y Procesos contra el Honor*, December 2002, 34-37.

<sup>189</sup> Reporters without Borders (RSF), June 5, 2002; Dallas Morning News; *Defensoría del Pueblo de la República de Panamá, Informe Especial: Democracia, Libertad de Expresión y Procesos contra el Honor*, December 2002, 14.



could be substituted with a \$1,500 fine if paid within 90 days of the execution of the judgment.<sup>190</sup> This case is one that was reported by the Office of the Special Rapporteur in its 2001 Annual Report.<sup>191</sup> On September 20, 2001, Ubaldo Davis and a colleague, Herbert Rattray, were arrested for publishing humorous material alluding to the private life of President Mireya Moscoso and other public officials. The next day, Joel Díaz, another journalist on the weekly, was also arrested. President Moscoso and one of the officials filed suit against the three journalists for “defamation and libel” and for “attacking the juridical security of the state.”<sup>192</sup> The charges were dismissed against Mr. Díaz. The Office of the Special Rapporteur has received no additional information about the charges against Mr. Rattray. Mr. Davis is currently appealing the conviction against him.<sup>193</sup>

198. On November 26, 2002, Julio César Aizprúa and Rafael Pérez, two journalists with *La Prensa*, were ordered to appear for questioning at the Fiscalía Septima del Primer Circuito Judicial in relation to an article they had published in February 2002. In the article, the journalists exposed alleged irregularities committed by the company Naves Supply in the handling of international refuse. They claimed that the company delivers large quantities of refuse from foreign sources to Panamanian ports daily. They further claimed that the refuse is mainly composed of manure, animal urine, food scraps, and rotten fruits and vegetables. On November 28, 2002, asked the Juzgado Duodécima de Circuito Penal to open judicial proceedings against the journalists for crimes against the honor of the company (solicita llamamiento a juicio).<sup>194</sup>

### **Access to information**

199. In its 2001 Annual Report, the Office of the Special Rapporteur expressed its satisfaction with the initiative taken by the Panamanian government in promulgating the Law on Transparency in the Public Administration on January 22, 2002, which guarantees the right of any person to obtain public information. In welcoming this initiative, the Office noted that access to information held by the state is a vital tool in building transparent public administrations.<sup>195</sup> Since that time, however, the Office has received information about a number of actions taken by the Panamanian State that would limit the positive effects of this law.

200. On May 21, 2002, the Executive promulgated Regulating Decree (Decreto Reglamentario) 124, which regulates the Law on Transparency in Public Administration. Many individuals and organization have expressed concern about these regulations, considering that they contravene the purpose and spirit of the Law on Transparency. On August 9, 2002, the Office of the Defensor del Pueblo presented a demand to declare null Articles 4,5,8,9, and 14 of

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<sup>190</sup> *Defensoría del Pueblo de la República de Panamá, Informe Especial: Democracia, Libertad de Expresión y Procesos contra el Honor*, December 2002, 9.

<sup>191</sup> IACHR, Annual Report 2001, p. 54.

<sup>192</sup> *Id.*

<sup>193</sup> *Defensoría del Pueblo de la República de Panamá, Informe Especial: Democracia, Libertad de Expresión y Procesos contra el Honor*, December 2002, 59.

<sup>194</sup> *Periodistas Frente a la Corrupción (PFC)*, November 29, 2002; *Defensoría del Pueblo de la República de Panamá, Informe Especial: Democracia, Libertad de Expresión y Procesos contra el Honor*, December 2002, 9.

<sup>195</sup> IACHR, Annual Report 2001, p. 55.

the Decree.<sup>196</sup> The Special Rapporteur expressed his concern about Article in particular in a letter to the Panamanian government on July 9, 2002, in which he requested information about this and other situations affecting freedom of expression in Panama. Article 8 of the Decree interprets the phrase "interested person" as used in Article 11 of the Law on Transparency to mean "a person who has a direct relationship with the information solicited." Due to the lack of a response from the Panamanian government, the Special Rapporteur sent a second letter reiterating the request for information on November 4, 2002. The Government of Panama informed the Office of the Special Rapporteur that they are preparing a response.

201. The Office of the Special Rapporteur has also received information about a number of judicial decisions in cases of appeals of denials of requests for information. According to the information received, of 65 requests for information, only 10 cases resulted in favorable decisions.<sup>197</sup> Among the decisions that were denied was a decision on October 22, 2002 in a case submitted by attorney Guillermo Cochez to the Supreme Court of Justice. Mr. Cochez had requested information relating to all trips taken by President Mireya Moscoso, a request that was rejected by a minister to the President. The Supreme Court ruled against Mr. Cochez, agreeing with the minister's argument that he had not shown that he was an "interested person" within the terms of the Law on Transparency.<sup>198</sup>

### **Other**

202. According to the information received, journalist Blas Julio has suffered more than 10 medical crises as a result of high blood pressure since his arrest and incarceration in the La Joya facility for alleged extortion against the owner of the Colón Abdul Waked Free Trade Zone on 21 de mayo de 2002. For humanitarian reasons, the former Ombudsman (defensor del pueblo), Italo Antinori-Bolaños, requested that journalist Blas Julio Rodríguez be transferred to a penitentiary such as El Renacer, which would be less dangerous to his health and safety. Without entering into the nature of the arrest, Antinori-Bolaños believed that Blas Julio should be treated with the dignity due to any person and that his physical safety needed to be protected. Also, according to the information provided, all of the country's television stations showed Blas Julio being led by the police through the streets to the Office of the Attorney General in handcuffs and shackles on the feet. The Ombudsman of Panama denounced this act of degradation as a human rights violation.<sup>199</sup>

## **PARAGUAY**

### **Judicial action**

203. On 17 December 2002, Judge José Waldir Servín issued his judgment in a judicial case initiated in 1997 against journalist Benjamín Fernández Bogado, who was found guilty of defamation and sentenced to a fine of slightly more than a US\$1,200 and the payment of

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<sup>196</sup> Information provided by the *Defensoría del Pueblo de la República de Panamá*.

<sup>197</sup> *Periodistas frente a la Corrupción*, February 5, 2003.

<sup>198</sup> *Defensoría del Pueblo de la República de Panamá*.

<sup>199</sup> *Defensoría del Pueblo*, Panama, July 25, 2002.

US\$1,400 in damages to the plaintiff in the case.<sup>200</sup> The case dates back to 6 December 1996, when Fernández Bogado was the news director for *Canal 9*. During a broadcast of the news program *24 horas*, comments were made linking Adalberto Fox, an attorney and current candidate for the Senate, with the Mafia. Months before, Fox had been discharged from his judgeship for irregularities in the conduct of his office.<sup>201</sup>

### Other

204. On Wednesday, 3 July 2002, the National Telecommunications Commission (CONATEL), accompanied by a police unit, proceeded to close and impound the equipment of community radio station Ñemity FM de Capiivary, in the department of San Pedro, under a judicial warrant issued on 30 November 1999. The community radio station Ñemity FM belongs to the organization Ñemity Comunicaciones. It is a member of the Paraguayan Radio Broadcast Association (COMUNICA) and the World Community Radio Association (AMARC) and has been operating in the Capiivary community for more than four years.

205. The station was actively involved in assisting and broadcasting information about campesino organizations during recent demonstrations in the department of San Pedro. The station provided assistance to these sectors and conducted a solidarity campaign that raised a significant amount of funds for the campesinos in Santa Rasa del Aguaray. The order to execute a judicial warrant issued more than two years before suggests that these actions were in the nature of a reprisal, in violation of the right to freedom of expression, for the role played by the station in giving service and a voice to its community.

206. According to the information provided by AMARC, this conduct was in breach of *"four agreements (signed on 26 October 1999; 30 November 1999; 24 July 2000; and 26 March 2001) between COMUNICA and the national government that community radio stations would not be closed until final measures had been taken to regularize them. The Telecommunications Act 642/95 and articles 27, 30, and 45 of the National Constitution, recognize the legality of Community Radio Stations."*<sup>202</sup>

207. On 9 July 2002, according to the information provided, CONATEL and the aforementioned radio stations reached an agreement. The delegation, composed of representatives of Radio Ñemity, COMUNICA and Red de Radios Populares, and delegates of the Ombudsman and Amnesty International (Paraguay), among others, signed an agreement with Mr. Víctor Alcides Bogado of CONATEL providing for: return of the equipment belonging to Radio Ñemity de Capiibary; the establishment of an intersectoral commission to regulate the operation of community radio stations in Paraguay; and the issuance of a resolution providing that no news steps should be taken until CONATEL had officially given effect to the modifications to the Regulations for Small and Medium Coverage Radio Broadcasting, clarifying the situation of stations truly fulfilling the role of community radio.<sup>203</sup>

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<sup>200</sup> ABC Color, December 18, 2002.

<sup>201</sup> *Periodistas Frente a la Corrupción* (PFC), December 27, 2002.

<sup>202</sup> *Asociación Mundial de Radios Comunitarias* (AMARC), July 9, 2002.

<sup>203</sup> *Programa de Legislaciones y Derecho a la Comunicación Asociación Mundial de Radios Comunitarias América Latina y el Caribe* (AMARC-ALC), July 10, 11 and 16, 2002.

208. On 25 September 2002, CONATEL issued resolutions recognizing the right of 107 community broadcasters throughout the country to continue broadcasting, directly awarding to them the frequencies for this purpose. Resolution 2002 provides that "*the measure ordering no news steps in respect of community radio stations in operation, included on the attached list presented by the associations representing them, provided that they remain in accordance with applicable regulations, until the modifications to the Regulations for Small and Medium Coverage Radio Broadcasters are implemented.*"<sup>204</sup>

### **Follow-up on the assassination of journalist Salvador Medina**

209. On 16 October 2001, Milciades Mayling was sentenced by a lower court ruling to 25 years in prison, the maximum penalty allowed under the Penal Code. Mayling had been found guilty as the perpetrator of the homicide of Salvador Medina, then Chairman of the Board of *Nemity*, a people's radio station in the town of Capi'ibary, in the department of San Pedro. On 27 March 2002, the VI Criminal Chamber of the Alto Paraná y Canindeyú judicial district, upheld the ruling and Mayling's 25-year prison sentence was considered final.

### **Positive developments**

210. On 11 December 2002, the Supreme Court of Justice of Paraguay absolved and pardoned Ricardo Canese, who had been convicted of defamation and libel. It should be recalled by way of background in this case that on 26 August 1992, as part of the political debate that took place while he was campaigning as a candidate for President of the Republic, Ricardo Canese questioned the qualifications and integrity of Mr. Juan Carlos Wasmosy, who was also a candidate for president. The remarks in question described "Wasmosy as lending his name for use by Stroessner in Itaipú" through the commercial firm CONEMPA. These statements, made in the context of an election campaign, were published in the newspapers *ABC Color* and *Noticias – el Diario* on 27 August 1992.

211. In its decision, the Supreme Court of Justice stated that "according to the new legal order, no one can be convicted of a criminal offense because of statements of this nature on matters of public interest involving public officials or persons, which is the case of a candidate for the country's highest office, even though such statements may affect their honor or reputation."

## **PERU**

### **Aggression and threats**

212. On 14 January 2002, the Prefect of the Department of Loreto, Joaquín Planas Morelly, assaulted journalist Darwin Paniagua, a reporter for Radio La Voz de la Selva de Iquitos, in the offices of the Prefecture. The journalist was visiting the Prefecture together with Javier Medina, a correspondent for the newspaper *El Comercio* of that city, to obtain a response from the highest political authority of the Loreto region to an accusation from a member of the

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<sup>204</sup> *Asociación Mundial de Radios Comunitarias (AMARC)*, September 30, 2002.

political party Perú Posible, that he had ordered the sequestration and beating of government party activists a few days prior to the assault, during a demonstration in which the Regional Department of Education had been occupied by demonstrators.<sup>205</sup>

213. On 5 August 2002, journalist Henry Ramírez, of Televisión Nacional del Perú (TNP), Luz Martínez of Frecuencia Latina (Canal 2), and Perla Villanueva of Canal N, were attacked by workers of the agribusiness Casa Grande, of Trujillo (north of Lima), demanding overdue back payment of their salaries. A group of demonstrators beat the reporters as they were covering the story and attempted to seize their video cameras.<sup>206</sup>

214. On 24 October 2002, a group of 10 journalists were attacked by members of the National Police of Peru as they were covering a story outside of the Congress of the Republic. Juan Carlos Sánchez, a reporter for the program "*La grúa radial*" of *Radio Comas*, and cameraman Juan Carlos Matías Sánchez, of *Frecuencia Latina*, suffered head injuries. In addition, a reporter for *América TV*, Elizabeth Rubianes, and her cameraman Jorge Castañeda, were affected by a tear gas bomb thrown very close to them by police officers.<sup>207</sup>

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<sup>205</sup> Id., January 14, 2002.

<sup>206</sup> Id., and Association of Latin American Journalists, August 2, 2002.

<sup>207</sup> Id., October 24, 2002.

## Access to information

215. According to the information received, representatives of the Regional Board of Directors (CTAR) of Loreto have been denying requests for information of public interest by radio station *La Voz de la Selva* of the city of Iquitos, Loreto department, in the eastern jungles of Peru. In a letter dated 15 February 2002 to Mr. Fidel Torres Ramírez, Chairman of the CTAR, *La Voz de la Selva* requested information on the Board's current budget and payroll, with a breakdown by salary. The purpose was to inform the public on how state resources were being distributed and handled. In response to this negative response from the authorities of the CTAR, the director of *La Voz de la Selva*, Miss Julia Jáuregui Rengifo, visited the Ombudsman of Iquitos on 27 March, represented by Dr. María del Carmen Solórzano, to request that he intervene, by virtue of the powers vested in him by the Constitution, and enforce the right of citizens to have access to information of public interest. Dr. Solórzano has already filed a document with the CTAR of Loreto requiring it to turn over the information requested pending a response.<sup>208</sup>

### Legislation

216. The Public Information Transparency and Access Act was promulgated on 3 August 2002. The law is undergoing a process of modification after members of the civil society presented observations.

## URUGUAY

### Aggression and threats

217. On October 18, 2002, the Special Rapporteurship received information that journalist Daniel Cancela from the program "*Subrayado*," Channel 10, had received death threats. According to the information, these threats were the result of several interviews about corruption in the prison administration that resulted in actions brought against three high-ranking officials of the prison system. In addition, the judge in the case, Pablo Egurebm, the police officer in charge of the investigation, Luisa Scelza, and two prisoners that acted as witnesses, were also threatened. One of the witnesses was physically attacked.<sup>209</sup>

## Positive development

218. On October 2002, the House of Representatives passed by a majority a bill on access to information and "habeas data," by which all citizens are entitled, without the need of a judicial order, to the right to access to all the documents of the State and to receive and disseminate information. The proposal has to further continue its process in the Senate.

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<sup>208</sup> Id., April 9, 2002.

<sup>209</sup> *Periodistas Frente a la Corrupción* (PFC) and *Asociación de Prensa Uruguaya*, October 18, 2002.

## VENEZUELA

219. The Office of the Special Rapporteur for Freedom of Expression made two visits to the Bolivarian Republic of Venezuela in 2002 at the invitation of President Hugo Chávez Frías.

220. The Office of the Special Rapporteur has been concerned to observe an increase in the number of threats and attacks against journalists, particularly those covering political events and meetings during the course of 2002. During and after the on-site visits conducted in May 2002, the Office of the Special Rapporteur was informed that journalists had been the direct target of aggression and harassment. The general situation in Venezuela has created a climate of aggression and threats against the personal integrity of journalists, camera technicians, photographers, and other media workers. Attacks against the media include the murder of a journalist; physical attacks, including gunshot wounds, threats, and explosives. The situation has an intimidating effect on the media; journalists hesitate to identify themselves as such for fear of reprisals.

221. In response to these circumstances the IACHR has requested the Venezuelan state to take precautionary measures on seven occasions, with extensions in several of these cases, to protect the lives, personal integrity, and freedom of expression of journalists, camera technicians, and photographers under attack. The IACHR has also requested provisional measures from the Inter-American Court of Human Rights, since the efforts to protect these individuals did not produce the desired results, the attacks against them having continued over time.

222. The acts of harassment and threats against journalists in recent months attest to an atmosphere of intimidation and intolerance for the profession of journalism in Venezuela. Although journalists continue to criticize the government, the continuation of this harassment could result in a situation of media self-censorship.

223. In addition to the foregoing, the Office of the Special Rapporteur has been informed that a complete and exhaustive investigation of these attacks on journalists and the media has yet to be conducted. The Office of the Special Rapporteur takes this opportunity to point out that impunity in these investigations also contributes to an atmosphere of intimidation and fear that is detrimental to the full enjoyment of the freedom of expression in Venezuela.

224. The Commission has held that the State's failure to conduct an effective and complete investigation into homicides, disappearances, or other attacks against journalists, and to impose criminal sanctions against the material and intellectual perpetrators of such acts is especially grave, given the impact though such inaction on society. Such crimes have an intimidating effect not only on other journalists but also on citizens in general, creating fear to denounce attacks, abuses, and illicit acts of all kinds. This effect can be avoided only if the State takes decisive action to punish the perpetrators of homicide against media representatives. By taking such action, states can send a strong and direct message to society that those who commit such grave violations of the right to freedom of expression will not be tolerated.<sup>210</sup>

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<sup>210</sup> IACHR, Report N° 50/90, Case 11.739, Mexico, OAS/Ser/L/V/II. Doc. 57, 13 April 1999.

225. During and after the IACHR's on-site visits to Venezuela, it came to the attention of the Office of the Special Rapporteur that the Venezuelan society could not gain access to information during the events of April 2002, and that the media were in some instances used as a political tool during the Venezuelan crisis. In a press release issued in May 2002, the IACHR indicated that "although there may be various justifications to explain this lack of information, the extent to which the suppression of information resulted from politically motivated editorial decisions should be a subject of careful reflection by the Venezuelan media about the role they play under such circumstances." Although the media in Venezuela have the right to adopt the editorial position that decide, the Office of the Special Rapporteur again calls upon the media in Venezuela to initiate a process of reflection about their role in times of political crisis, when society expects to receive the most comprehensive and ample information. Although according to the information provided by several sources<sup>211</sup>, media coverage of the current crisis in Venezuela appears to be guided by politically motivated editorial decisions, the Office of the Special Rapporteur wishes to emphasize that under no circumstances can such an attitude on the part of the media, repeatedly denounced by the government, justify aggression against journalists and other media workers and facilities.

226. Some of the incidents of violence against the media reported to the Office of the Special Rapporteur in 2002 are described below. The information provided in no way constitutes an exhaustive account of the complaints received, merely a number of situations that exemplify the delicate situation in which the media has to operate in the current context of crisis in Venezuela.

### **Assassination**

227. On 11 April 2002, Jorge Tortoza, of *Vespertino 2001*, died as the result of a gunshot to the head. Following the general strike organized by the Workers Confederation of Venezuela (CTV) and the industry association *Fedecamaras*, snipers positioned in several buildings adjacent to the Presidential Palace of Miraflores, fired machine guns and other firearms on persons in the area, resulting in the death of the journalist Tortoza and the injury of three other journalists. Jorge Tortoza, who had been working for the paper since the age of 16, was taken to Vargas Hospital, where he died following surgery. According to the information received, the Criminal Investigations Unit (CIPC) of the Venezuelan police, continues to investigate the case.<sup>212</sup>

### **Gun shot victims**

228. On 11 April 2002 Luis Hernández, of the official agency *Venpres* and Jonathan Freitas, of the newspaper *Tal Cual* were wounded by gunshots after covering the general strike

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<sup>211</sup> The Washington Post: A Split Screen In Strike-Torn Venezuela, January 12, 2003; New York Times: Venezuelan News Outlets Line Up with the Foes of Chavez, December 21, 2002. *Comité para la Protección de Periodistas*: Venezuela Special Report: Cannon Fodder, In the current battle between the Venezuelan media and President Hugo Chavez Frias, journalist are being used as ammunition. *Instituto Prensa y Sociedad (IpyS)*, *Boletín Semanal: Contrapunto entre corresponsales extranjeros y medios venezolanos*, January 29, 2003. *Programa Venezolano de Educación Acción en Derechos Humanos (PROVEA)*: Annual Report October 2001/September 2002, *Sesgo político de medios publicos y privados*. Caracas, November 2002, pag. 449.

<sup>212</sup> Inter-American Press Association (SIP/IAPA), April 12, 2002, Committee to Protect Journalists (CPJ), April 11, 2002 and *Instituto Prensa y Sociedad (IPyS)*, July 26, 2002.



organized by the Workers Confederation of Venezuela (CTV), and the industry association *Fedecamaras*.<sup>213</sup>

229. In August 2002, Antonio José Monroy, a camera technician for RCTV, was hit by a bullet in the right calf as he covered a disturbance near the Supreme Tribunal of Justice, when the court's decision acquitting four military officers of charges in connection with a coup d'etat in April 2002.<sup>214</sup>

230. On 4 November 2002, Salvadoran journalist Mauricio Muñoz Amaya, a correspondent for Associated Press Television News (APTN), was hit by a bullet while on the job in the Venezuelan capital. The incident took place as the reporter was recording images of a disturbance near the National Electoral Council (CNE), in the center of Caracas. Muñoz was wounded by a bullet from a 9mm pistol, which hit him in the right portion of his chest. The injury was not serious because the cameraman was wearing a bulletproof vest.<sup>215</sup>

231. On 12 November 2002, the reporter Armando Amaya, camera assistant for *Radio Caracas Televisión*, was wounded as he covered a demonstration in the center of Caracas, which culminated in acts of violence. A bullet grazed his right leg, causing a slight injury. According to the information provided, the cameraman was assisted by Caracas firefighters, who took him to the municipal infirmary for medical attention.<sup>216</sup>

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232. On 3 December 2002, Fernando Malavé, a reporter for *Diario 2001*, was hit by a rubber bullet as he, together with journalist Félix Azuaje, were covering a demonstration by a group of government opponents, outside the headquarters of the state company *Petrómeros de Venezuela*, located in Chuao, to the east of Caracas. Malavé was taken to Domingo Luciani Hospital in Caracas. Other media representatives covering the events were also affected. The microwave technician for the television station *CMT*, José Antonio Dávila, was wounded by shotgun pellets in the neck and chest. Journalist Rafael Fuenmayor of *CMT*, was kicked and affected by a tear gas bomb that fell at his feet as he was reporting live from the scene.<sup>217</sup>

## Attacks

233. On 31 January, a homemade bomb was thrown from a moving motorcycle in front of the offices of the newspaper "*Así es la Noticia*." The bomb destroyed the glass entrance and forced 200 employees to evacuate the building.<sup>218</sup>

234. On 9 July 2002 four firebombs were thrown at the offices of the regional television station *Promar TV*, located in the city of Barquisimeto, in the state of Lara.<sup>219</sup>

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<sup>213</sup> IPyS, July 26, 2002.

<sup>214</sup> *El Nacional*, August 15, 2002.

<sup>215</sup> Committee to Protect Journalists, November 18, 2002 and *Instituto Prensa y Sociedad*, November 6, 2002.

<sup>216</sup> *Instituto Prensa y Sociedad*, November 12, 2002.

<sup>217</sup> *Id.*, December 5, 2002.

<sup>218</sup> *Asociación Nacional de Periodistas*, February 1, 2002.

<sup>219</sup> *Instituto Prensa y Sociedad*, September 13, 2002.

235. On 9 July 2002, a small bomb exploded at the headquarters of the private television station *Globovisión*, in La Florida, a settlement located northeast of Caracas.<sup>220</sup>

236. On 31 July 2002 the Venezuelan channel *Globovisión* was hit by a second attack by unknown persons. According to the information received, a tear gas bomb was thrown from a car passing in front of the channel's headquarters.<sup>221</sup>

237. On 22 September 2002 unidentified persons fired gunshots at the residence of Carlos Barrios, director of the regional radio station *Astro 97.7 FM*, located in the state of Portuguesa in western Venezuela. Barrios indicated that after the attack he received a call on his cell phone telling him that the next shots would be fired at him.<sup>222</sup>

238. On 19 October 2002 unidentified persons threw an explosive device into the offices of *Unión Radio*, located in the municipality of Chacao, in Caracas. The explosion damaged the station's external structure and the facade of an adjacent family residence. The news director for *Unión Radio*, Inés Scudellari, told the press that prior to the incident she and other employees of the station had received threats at the station by fax, telephone, and the Internet.<sup>223</sup>

239. On 17 November 2002 an explosive device was thrown at the headquarters of the private television channel *Globovisión*, outside of Caracas. The device, probably a Molotov cocktail according to the firefighters, caused a fire that destroyed three vehicles.<sup>224</sup>

**Other threats and aggression warranting the adoption of precautionary measures by the IACHR**

240. Given the large amount of information received by the Office of the Special Rapporteur concerning aggression and attacks against journalists and the media in general in 2002, this section, without prejudice to the cases indicated earlier, refers to a number of examples of situations warranting that the IACHR take some kind of action, such as precautionary measures or press releases, to promote the full observance and exercise of the freedom of expression in Venezuela.

The newspaper “*El Nacional*”

241. On 7 January 2002, a group of citizens identifying themselves as members of the *Movimiento Bolivariano 2000* and *Círculos Bolivarianos* gathered at the headquarters of the newspaper “*El Nacional*.” The citizens supposedly gathered there to demonstrate against the newspaper's editorial positions.

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<sup>220</sup> Reporters without Borders, July 10, 2002.

<sup>221</sup> *Instituto Prensa y Sociedad*, August 2, 2002.

<sup>222</sup> *Id.*, September 24, 2002.

<sup>223</sup> *Id.*, October 22, 2002.

<sup>224</sup> *Id.*, and Reporters without Borders, November 18, 2002.

242. The aggressive posture assumed by these demonstrators included “brandishing objects that could serve as makeshift weapons (sticks, tubes, large pieces of metal), taking pictures of journalists arriving at the *El Nacional* to signal identification, shouting obscene and insolent phrases, and impeding the arrival and departure of the newspaper’s employees, whose physical integrity and even lives were threatened by these acts.”

243. In response to the foregoing, on 11 January 2002, the IACHR decided to request the following precautionary measures on behalf of the journalists, workers and managers of the newspaper *El Nacional*:

- 1) Provide such protection as may be requested by the representatives of the newspaper *El Nacional*, to safeguard the safety and personal integrity of the newspaper’s journalists, workers, and managers.
- 2) Conduct an exhaustive investigation to identify, prosecute and punish those responsible for the acts designed to intimidate the newspaper *El Nacional* on 7 January 2002.
- 3) Adopt such measures as may be necessary to protect the exercise of the freedom of expression, safeguarding the right of Venezuelan society as a whole to have access to information.

244. On 10 July 2002, the IACHR extended the precautionary measures based on the information provided by the petitioners alleging further threats to kill the newspaper’s journalists.

#### **Andrés Mata Osorio, the *El Universal* newspaper**

245. According to the information received, Mr. Mata, editor and owner of the newspaper *El Universal* indicated that “at the two press conferences held last September [2001], mentioned earlier, the President of the Republic warned that: ‘*No one is going to save you, Andrés Mata*’; adding that ‘*The newspaper El Universal owned by Andrés Mata, the oligarch, runs roughshod over the people.*’ In addition, according to the information provided, on 17 December [2001], in a public act, the president said: ‘*To El Universal, that is, to Andrés Mata Osorio, for having fomented a conspiracy, I say that 2002 will be the year for a great offensive ... marked by a series of events that are going to occur.*’ On 13 January 2002, President Hugo Chávez Frías showed a photograph of Mr. Mata on television so that “his followers could recognize him as an oligarch and a suppressor of the people, etc.” Since this public identification, Mata says that he has received telephone death threats against him and his family.

246. Based on this information, on 27 January 2002, the IACHR requested the following precautionary measures on behalf of Andrés Mata Osorio:

- 1) Provide the protection requested by Andrés Mata Osorio, editor and owner of the newspaper *El Universal*, to safeguard his life and personal integrity and that of his family.
- 2) Adopt such measures as may be necessary to protect the full and free exercise of the freedom of expression by Andrés Mata Osorio, editor and owner of the newspaper *El Universal*.

247. On 25 June 2002, the IACHR requested information concerning the situation of journalist Alicia La Rotta Morán, within the context of the precautionary measures granted to Mr. Mata of the newspaper *el Universal* on 27 January 2002. According to the information received,

Miss Rotta Moran, a journalist for the newspaper *El Universal*, had been assaulted on 20 June 2002.

248. On 23 July 2001, the IACHR granted a request for an extension of the precautionary measures inasmuch as the State had not fully complied with the original measures. The extension is subject to the following terms:

- 1) Provide the protection requested by Andrés Mata Osorio, editor and owner of the newspaper *El Universal*, to safeguard his life and personal integrity and that of his family, and provide the protective measures requested by the journalist Alicia de la Rotta Morán.
- 2) Adopt such measures as may be necessary to protect the full and free exercise of the freedom of expression by Andrés Mata Osorio and the journalist Alicia de la Rotta Morán.

249. This extension is based on information sent by the representative of Mata and la Rotta indicating that on 20 June 2002 the journalist La Rotta Moran had been the victim of physical aggression by a military intelligence officer of the Government of the Republic. On 28 January 2003, the IACHR decided to grant a further extension of the precautionary measures taken on behalf of Mr. Mata and the journalist La Rotta based on information concerning further aggression against them.

### **Globovision and RCTV**

250. According to the information provided, on 20 January 2002 journalists Luisiana Ríos, of RCTV, and Mayela León, of GLOBOVISION, and their technical teams, arrived to cover the program of President Hugo Chávez "*Aló Presidente*" in the Observatorio Cajigal, situated on a hill in Parroquia 23 de enero, west of Caracas. When the vehicles arrived, showing the logos of their respective channels, a group of approximately 50 persons surrounded them, rocking them from side to side, and striking and kicking the vehicles as they shouted: "we will lynch you if you get out." According to the information provided, members of the military escorted the vehicles out of the area.

251. On 30 January 2002, in view of the above information, the IACHR requested the following precautionary measures on behalf of Luisiana Ríos, Luis Augusto Contreras Alvarado, Armando Amaya, Eduardo Sapene Granier of *Radio Caracas Televisión* and Mayela León Rodríguez, Jorge Manuel Paz Paz and María Fernanda Flores of *Globovisión*:

- 1) That the necessary measures be taken to protect the lives and personal integrity of Luisiana Ríos, Luis Augusto Contreras Alvarado, Armando Amaya, Eduardo Sapene Granier of *Radio Caracas Televisión* and Mayela León Rodríguez, Jorge Manuel Paz Paz and María Fernanda Flores of *Globovisión*.
- 2) Refrain from any action that could have an intimidating effect on journalists and other workers for *Globovisión* and *Radio Caracas Televisión*.
- 3) Conduct an exhaustive investigation of the actions taken on 20 January 2002 against journalists Luisiana Ríos and Mayela León Rodríguez, of RCTV and *Globovisión* respectively and the technical teams accompanying them.

252. On 29 July 2002 the IACHR approved the request for an extension, requesting that the State:

- 1) Take such necessary measures to protect life and personal integrity as may be requested by the representatives of *Globovisión* and *Radio Caracas Televisión* in order to protect the lives and personal integrity of the workers for both channels and to safeguard the security of their property and installations.
- 2) Refrain from any action that could have an intimidating effect on the exercise of their profession by journalists and other workers for *Globovisión* and *Radio Caracas Televisión*.
- 3) Conduct an exhaustive investigation into all acts of intimidation and attacks against the journalists and other workers of RCTV and *Globovisión* or against their facilities or vehicles reported by the two channels.

253. The extension was based on the fact that the situation giving rise to the original measures had persisted. In addition, on 19 April 2002, the IACHR requested information on the situation of *Globovisión* reporter Orlando Rafael Urdaneta within the context of precautionary measures adopted by the Commission.

#### Radio Caracas Televisión (Request for precautionary measures to the Inter-American Court of Human Rights)

254. On 27 November 2002, the Inter-American Commission decided to file a request with the Inter-American Court of Human Rights for precautionary measures on behalf of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellano and Argenis Uribe. On the same day, 27 November 2002, the Inter-American Court of Human Rights granted the measures requested and resolved to:

- 1) Request that the State take the necessary measures, without delay, to protect the life and personal integrity of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellano and Argenis Uribe, employees of *Radio Caracas Televisión* (RCTV).
- 2) Request that the State allow the petitioners to participate in the planning and implementation of the protective measures and in general keep them informed on progress in implementing the measures ordered by the Inter-American Court of Human Rights.
- 3) Request that the State investigate the reported incidents that gave rise to these measures for the purpose of finding and punishing those responsible.
- 4) Request that the State report to the Inter-American Court of Human Rights on the measures taken in pursuance of this resolution, by no later than 12 December 2002.
- 5) Request that the Inter-American Commission on Human Rights, within one week of the notification of the State's report, submit such observations as it may consider appropriate to the Inter-American Court of Human Rights.
- 6) Request that the State, subsequent to its first communication (see paragraph 4 above), continue to report every two months to the Inter-American Court of Human Rights on the provisional measures taken and to request that the Inter-American Commission on Human Rights present its observations on these reports within six weeks of their receipt.

#### Venevision

255. According to the information received, on 3 February 2002, reporters for *Venevisión* were asked to cover a tour by the President of the Bolivarian Republic of Venezuela, Mr. Hugo Chávez Frías, departing from San Carlos airport to the state of Aragua. When they arrived at the airport, they found themselves among people “wearing logos of the political party *V República*, who verbally attacked the reporters for *Venevisión*.” When they reached Aragua the camera technician Mauro Acosta Padrón indicated that he had received a blow on the back left side of the head. They also indicated that on 7 February 2002, during their coverage of a public event, two buses moving at high speed charged into an area where journalists and camera technicians were gathered.

256. The information provided indicates that Mauro Acosta Padrón was hit by one of these buses, seriously threatening his life and causing injury and trauma warranting his hospitalization in the *La Viña* Clinic in the city of Valencia. On 21 February 2002, at Ciudad Universitaria de Caracas, a group of persons allegedly broke the windows and a mobile unit belonging to the press department of *Venevisión*.

257. Based on this information, the IACHR requested on 28 February 2002 that the state of Venezuela take precautionary measures to protect Laorwins José Rodríguez Henríquez, Mauro Acosta Padrón, Randolpho Blanco, Sol Vargas Arnaz, and other workers and/or journalists for the television station VENEVISION as follows:

- 1) Provide the protection requested by the representatives of television station *Venevisión*, to safeguard the right to life and personal integrity of the station's journalists and workers.
- 2) Conduct an exhaustive investigation of the events of 3, 7 and 21 February 2002, victimizing *Venevisión* employees Mauro Acosta Padrón, Randolpho Blanco and Laorwins José Rodríguez Henríquez.
- 3) Take the necessary measures to protect the full exercise of the freedom of expression by media representatives, in accordance with article 13 of the Convention.
- 4) That the illustrious Government of Venezuela, through its highest authority, categorically denounce the attacks being perpetrated on media workers.

258. In addition, on 19 April 2002, the IACHR requested information from the State on measures taken to protect the *Venevisión* journalists, singling out in particular journalists Luis Alfonso Fernández and Julio Gregorio Rodríguez García, who had received threats following the coverage of the events of 11 April.

259. During the Commission's on-site visit to Venezuela (6-10 May 2002) Dr. Pedro Nikken and Carlos Ayala, attorneys for the *Venevisión* journalists, hand delivered a request for precautionary measures on behalf of *Venevisión* journalists Julio Gregorio Rodríguez García, Mauricio Cabal Zamorano, Randolpho Blanco, Graciliano Esteban Leal Hernandez, Nelson Torres Flores, and Ray Carlos Avilez Luna. On 22 May 2002, the IACHR transmitted to the state this additional request for precautionary measures on behalf of the aforementioned journalists.

260. On 20 June 2002, the IACHR granted the request for an extension of the precautionary measures. On 1 August 2002, in view of information received about a further attack on journalist Ray Carlos Avilez Luna, the IACHR sent a request for information to the

State. On 30 August 2002 the IACHR notified the State that the precautionary measures requested by *Venevisión* had been extended.

Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianela Salazar

261. Information received on 1 February, and 5 and 8 March 2002 indicated, inter alia, that "a report by journalist Ibéyise Pacheco, on 30 January 2002 [sic], together with journalists Marta Colomina, Patricia Poleo and Marianella Salazar, divulged a videotape showing conversations between the Venezuelan army and guerrilla forces in Colombia, revealing that a permanent and continuous relationship existed between them and that they had collaborated, for instance, in the supply of food by Venezuelan Armed Forces to members of the Colombian revolutionary forces (FARC). Subsequently, Ibéyise Pacheco began to receive a series of telephone calls warning her not to publish news or opinions that "might affect the course of the Bolivarian revolution." According to the information provided, in the first communication on 1 February 2002, after the telephone calls, "an explosive device" was placed at the door of the newspaper "*Así es la Noticia*" and "exploded, destroying the main door to the newspaper building."

262. The communications provided to this Commission on 5 and 8 March 2002 reveal that after the explosion, the journalist Pacheco received threats against her person over the telephone, in flyers, and publications that the journalist indicates she received prior to 7 March 2002.

263. Based on the information described above, on 12 March 2002 the IACHR requested that precautionary measures be taken on behalf of Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianela Salazar. The IACHR requested that the Venezuelan state:

- 1) Provide the protection requested by journalists Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianela Salazar, to safeguard their right to life and personal integrity in accordance with articles 4 and 5 of the American Convention.
- 2) Conduct an exhaustive investigation into the events of 31 January 2002, at the headquarters of the newspaper *Así es la Noticia* and the threats received by journalists Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianela Salazar.
- 3) Take the necessary measures to protect the full exercise of the freedom of expression by media representatives, in accordance with article 13 of the Convention.
- 4) Refrain from any action that could have an intimidating effect on journalists Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianella Salazar.

Dubraska Romero, *Tal Cual* newspaper

264. Information received on 23 May 2002 indicated inter alia that journalist Dubraska Romero of the Venezuelan morning newspaper *Tal Cual* had been "covering the military front for four years [and that] fifteen days before the events of 11 April 2002 a National Guard official gave the journalist Romero a coup d'etat manual that was circulating in the regiment. The newspaper *Tal Cual* published this document in March 2002." According to the information provided, starting 7 May of this year the journalist Romero had been receiving telephone calls that she could identify as "from the National Guard." It is of relevance that according to the

information received, "during the morning of May 9, Dubraska Romero received a call from Coronel Alexis Maneiro, who in turn transferred her to General Belisario Landis, Comandante General of the National Guard, who asked about her situation and said "they had already identified the officers who had been bothering her and that they wouldn't be bothering her anymore." According to the information provided, after this call, the journalist Romero received another call telling her that "she was taking things very lightly, she seemed to think that everything was a lie and that they knew everything about her and her family."

265. The IACHR requested the adoption of precautionary measures to protect the life of the journalist and her family as follows:

- 1) Provide the protection requested by journalist Dubraska Romero, to safeguard her right to life and personal integrity and that of her family, in accordance with articles 4 and 5 of the American Convention.
- 2) Conduct an exhaustive investigation of the facts in the case.
- 3) Refrain from any act that could have an intimidating effect on journalist Dubraska Romero and her family.

266. On 1 October 2002 the IACHR sent new information about the journalist's situation to the State. The information indicated that personal protection was being provided to the journalist by the municipal police of Chacao. Despite this protection, Romero continued to receive death threats electronically and by telephone, and noticed that unidentified persons were following her in automobiles without license plates.

**José Ángel Ocanto, news director for the newspaper *El Impulso de Barquisimeto***

267. On 5 August 2002, journalist José Ángel Ocanto, news director for the newspaper *El Impulso de Barquisimeto*, reported that he had received telephone calls threatening him and his family and had been personally harassed as a result of his newspaper articles and opinion columns on the subject of the corruption in government. He reported that on July 6, 2002 unknown persons sprayed his car with gasoline and set it on fire. He reported that the police authorities refused to act in his defense. The information received indicates that the Media Affairs Committee of the Regional Legislative Council and the Subcommittee on Media Affairs of the National Assembly were also unresponsive to his complaint, and that on the same night of the attack, individuals in a red van began circling his home. He also reported that both the Governor of the state of Lara, and the Director of Public Security and Order told the public that the car had "caught fire by itself" or that the incident had been "provoked" with "obscure intentions." The telephone threats warned him that if he continued writing his articles, he would be murdered and his wife and daughters would be raped. During one of the calls, specific information about him and his family was mentioned. The petitioner also reported that he had been criminally prosecuted for slander after reporting on a denunciation in the Venezuelan Parliament.

268. With respect to the burning of his car, the journalist reported that police authorities did not respond to his complaint or collect evidence. In view of this response, the journalist reported the burning of his car and the telephone threats to the Superior Public



Prosecutor's Office in the Office of the Attorney General, the Police Criminological Science Unit, and the Media Affairs Committee of the Regional Legislative Council.

269. On 5 November 2002, the IACHR requested the Venezuelan state to take the following precautionary measures on behalf of Mr. Ocanto, in view of the fact that it had not received responses to two requests for information on Mr. Ocanto's situation:

1. That the appropriate authorities provide such protection as may be requested by Mr. José Ángel Ocanto and his family, to protect their lives and personal integrity, in accordance with articles 4 and 5 of the American Convention on Human Rights.
2. That an exhaustive investigation be conducted into the acts of intimidation and threats received by the beneficiaries of this precautionary measure.

## OTHER

270. During the two visits made by the IACHR to Venezuela in 2002, the Office of the Special Rapporteur received information about the concerns of numerous sectors of society over the large number of the state national chains in the media. The national chains require media outlets to cancel their regular programming to transmit information imposed by the government. The Office of the Special Rapporteur was able to verify that the duration and frequency with which national chains were being used could be considered abusive in light of the information communicated by them, which might not always be serving the public interest. The IACHR issued a timely press release denouncing the abusive and unnecessary use of this mechanism, which if used on a discretionary basis for purposes not in the public interest could constitute a form of censorship. Following the visits, the Office of the Special Rapporteur was pleased to receive information indicating a significant reduction in the use of this mechanism.

## E. Murders of media personnel

MEDIA PERSONNEL ASSASSINATED IN 2002				
INFORMATION REGARDING THE JOURNALIST	PLACE AND DATE	FACTS OF THE CASE	BACKGROUND	STATUS OF THE INVESTIGATION
<b>Tim Lopes</b> , reporter for TV Globo	Vila do Cruzeiro, Rio de Janeiro BRAZIL, June 2, 2002	Tim Lopes disappeared and was later found murdered. According to news reports, he was last seen on assignment in the suburbs of Rio de Janeiro, at an impoverished community ( <i>favela</i> ). On June 12, police found badly decomposed human remains, along with Lopes' camera and watch,	Lopes was an investigative reporter who conducted investigations into drug trafficking. Shortly before his death, Lopes received calls from the favela of Villa Cruzeiro that some drug dealers were forcing minors to perform explicit sex shows. Armed with a hidden camera, Lopes	On September 19, 2002, Brazilian police captured a local drug trafficker who was the leading suspect in the disappearance and murder of Tim Lopes. Elias Pereira da Silva, also known as Elias the Madman, was apprehended in one of Rio de Janeiro's favelas. According to the Rio de

		in a clandestine cemetery in Favela da Grota. After DNA tests, the police confirmed on July 5 that the remains belonged to Lopes	was abducted while reporting on the story.	Janeiro Civil Police, two suspects, both members of the gang headed by Pereira da Silva, were arrested on the morning of June 9. Both men claimed that they heard how Lopes was murdered but denied any involvement in his killing.
<b>Domingos Sávio Brandão Lima Júnior</b> , owner, publisher, and a columnist of the daily Folha	City of Cuiabá, in the central Brazilian state of Mato Grosso. BRAZIL September 30, 2002	Brandão was shot at least 5 times by two unidentified men on a motorcycle.	Brandão's death relates to the paper's extensive coverage of drug trafficking, illegal gambling, and acts of corruption involving public officials. The journalist was also a businessman who owned construction and publishing companies	On October 1, 2002, Hércules Araújo Coutinho, a corporal in the military police and Célio Alves de Souza, a former military policeman, were arrested for their alleged participation in the crime. Hércules Araújo Coutinho was recognized by eye witnesses as one of the murderers. Incriminating ballistic evidence against him was produced, along with finger prints associating him with five other murders occurring in the region that year.
<b>Félix Alonso Fernández García</b> , editor of the weekly "Nueva Opción"	Miguel Alemán city, in Tamaulipas State (north-eastern Mexico). MEXICO January 18, 2002.	The journalist was hit by a bullet fired from a vehicle. The bullet entered the left side of the thorax, and passed through the abdomen. He was also hit by another bullet in his right arm.	The journalist had recently reported in "Nueva Opción" on alleged relations between the former mayor of Miguel Alemán, Raúl Rodríguez Barrera, and drug traffickers. In 2001, the journalist had informed police of these relations. A few days before his death, the journalist had accused the former mayor of wanting to kill him.	As of publication of this report, the Rapporteur had not received any information on the status of inquiries into the murder of journalist Alonso Fernández García.

<p><b>Orlando Sierra Hernández</b>, assistant editor (Deputy Director) of the daily <i>La Patria</i></p>	<p>Manizales, departament of Caldas. COLOMBIA. January 30, 2002.</p>	<p>Hernandez was shot in front of the newspaper's offices. He died two days later.</p>	<p>Hernández wrote a column called <i>Punto de encuentro</i>, in which he critically analyzed issues of national and regional concern, including cases of corruption. In his weekly columns, Mr. Sierra also criticized leftist rebels and a right-wing paramilitary group. Although the journalist had previously received threats as the result of statements in <i>Punto de encuentro</i>, he was not considered to be at risk at the time of the shooting.</p>	<p>Luis Fernando Soto ultimately pleaded guilty to the murder and was sentenced by a Special Judge of Manizales (Juez Especializado de Manizales) to 19 ½ years in prison. In May 2002, authorities also arrested Luis Arley Ortiz Orozco, on suspicion of having been the intermediary between those who ordered the crime and those who carried it out. The Attorney General's Office is also investigating Francisco Antonio Quintero Torres upon suspicion that he heads the gang of assassins to which Mr. Soto belonged. The intellectual authors of the crime have not been apprehended.</p>
<p><b>Héctor Sandoval</b>, cameraman and <b>Wálter López</b>, the crew's driver, both of the <i>RCN Televisión</i> news crew.</p>	<p>Cali, COLOMBIA April 11, 2002.</p>	<p>Sandoval and Lopez were shot while covering fighting between the Colombian army and leftist rebels.</p>	<p>According to a witness from another media organization, the journalists had decided to turn back when an army helicopter hovering above opened fire on their vehicle, hitting López. The witness stated that the letters "RCN" were marked in large, bright colors on the roof and both sides of the vehicle. The journalists tried to signal the helicopter for help by waving white T-shirts in the air. Fifteen minutes after López was shot, a bullet from the helicopter hit Sandoval.</p>	<p>The army has opened an investigation into the killings, said an army spokesman in Bogotá, who asked to remain anonymous. The head of the anti-abduction squad, Colonel Carlos Arévzlo denies that the army was responsible and asserts that the journalists were attacked by the FARC.</p>
<p><b>Efraín Varela Noriega</b>, owner of <i>Radio Meridiano 70</i>.</p>	<p>Arauca, COLOMBIA June 28, 2002</p>	<p>Varela Noriega was driving home from a university graduation in Arauca Department, along with his sister and brother-in-law, when their car was intercepted by a white truck. Several heavily armed men forced the journalist to get out of his</p>	<p>Mr. Varela was the host of two news and opinion programs at <i>Radio Meridiano 70</i> in which he frequently criticized all sides fighting in Colombia's 38-year civil conflict. In addition to being a journalist, Mr. Varela was an attorney,</p>	<p>The Human Rights Unit of the Attorney General's Office (La Unidad de Derechos Humanos de la Fiscalía de la Nación) has taken up the investigation of the case.<sup>225</sup></p>

<sup>225</sup> IPyS, June 29, 2002; RSF, July 1, 2002; CPJ, July 1, 2002; SIP/IAPA, July 2, 2002.

		<p>car, which was marked with the insignia of <i>Radio Meridiano 70</i>, and shot him in the face and chest. The assassins put Mr. Varela in the truck and dumped his lifeless body further up the road. Mr. Varela's sister and brother-in-law were unharmed.</p>	<p>teacher, and social leader with a particular interest in peace and conflict resolution and human rights. Mr. Varela's professional activities had made him a frequent object of threats from both the paramilitaries and the guerillas. His name had appeared in a list of people declared "military objectives" by the paramilitaries of the AUC. According to his widow, Mr. Varela had received threats as recently as two days before his death.</p>	
<p><b>Mario Prada Díaz</b>, the founder and director of the monthly newspaper <i>Horizonte Sabanero</i> (later renamed <i>Horizonte del Magdalena Medio</i>).</p>	<p>Santander Department in Northeastern COLOMBIA July 11, 2002.</p>	<p>Prada Diaz was abducted from his house in the municipality of Sabana de Torres. The next morning, his body was found riddled with gunshots not far from his home. The motives for the killing and the possible perpetrators are unknown.</p>	<p>Prada's newspaper is dedicated to covering cultural, social, and community development issues. The paper had written about financial irregularities involving the municipal administration of Sabana de Torres just a week earlier. Additionally, just a week before Prada's murder, the head of a right-wing paramilitary force in the region had warned that his group would begin killing journalists. The place where his body was found is located in a zone that has been constantly fought over by Frente 22 of the Revolutionary Armed Forces of Colombia (FARC), the Frente Vásquez Chacón of the Ejército de Liberación (ELN), and the Bloque Central of the Autodefensas Unidas de Colombia (AUC)</p>	<p>As of publication of this report, the Rapporteur had not received any information on the status of inquiries into the murder of journalist Mario Prada Díaz.</p>
<p><b>Elizabeth Obando</b>, who was responsible for the distribution of the regional newspaper <i>El Nuevo Dia</i></p>	<p>Roncesvalles municipality, in the department of Tolima. COLOMBIA July 11, 2002,</p>	<p>Obando was travelling on a bus in Playarrica, department of Tolima, when unknown armed men intercepted the vehicle, forced her to get out and minutes later shot her several times. She died two days later from the</p>	<p>Ms. Obando had previously been threatened by "Donald", leader of the FARC's 21st division, because of a September 21, 2001 article published in <i>El Nuevo Día</i> criticizing the FARC.</p>	<p>As of publication of this report, the Rapporteur had not received any information on the status of inquiries into the murder of the distributor of the newspaper <i>El Nuevo Dia</i>.</p>

		<u>injuries.</u>		
<b>Jorge Tortoza</b> , photographer for <i>Vespertino 2001</i> .	Caracas, VENEZUELA April 11, 2002.	Tortoza died from a bullet wound to the head while covering clashes between opponents and supporters of President Hugo Chávez.	Tortoza had worked for <i>2001</i> for 17 years.	The Venezuelan investigative police (Cuerpo de Investigaciones Penales y Criminalísticas - CIPC), is continuing its inquiries into this case.