

OEA/Ser.L/v/II.88
Doc. 10 rev.
9 February 1995
Original: Spanish

Organization of American States
Inter-American Commission on Human Rights

REPORT ON THE SITUATION OF HUMAN RIGHTS IN HAITI
1995

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INTRODUCTION

1. The information included in the present report covers the period between January 1994 through January 1995. During the months between January and september 1994, the Inter-American Commission on Human Rights recorded a large number of systematic human rights violations in Haiti. Most of these violations were committed by the illegal de facto regime, which, in its attempt to stay in power, resorted to all kinds of oppressive acts against the Haitian people, particularly those sectors supporting the return of the democratic regime.

2. The oppression took on new characteristics, with increasingly cruel crimes committed by the military and paramilitary forces, resulting in massacres and rape. The rights of children were also violated as a result of reprisals taken against the families of political militants, who had to go into hiding.

3. The violent situation found by the Commission in its on-site visits diminish with the arrival of the Multinational Force authorized by the United Nations. The reinstallation of President Jean-Bertrand Aristide in Haiti on October 15, 1994, opened the way for dialogue and national reconciliation. However, there are serious problems inherited by the constitutional government which now has the responsibility to rebuild the economy of a country regarded as the poorest in

the hemisphere and at the same time to lay the basis for a government of law, a condition sine qua non for representative democracy.

4. The international community's commitment to help rebuild Haiti will be reflected in the establishment of institutions for the protection of civil and political rights, as well as the socio-economic and cultural rights of the Haitian people.

CHAPTER I: BACKGROUND

5. In view of the worsening human rights situation in Haiti, the Inter-American Commission on Human Rights (IACHR) continued to give priority to its work in this area and has presented a special report to the General Assembly of the Organization of American States (OAS) each year concerning violations of rights in Haiti. These reports describe the political situation prevailing in Haiti, which has generated a considerable increase in violations of people's personal guarantees by way of the repression carried out by the authorities illegally governing the country.

6. Since the overthrow of the constitutional Government of President Jean-Bertrand Aristide, the IACHR has made four on-site visits and noted, on the basis of a continuous review of the Haitian situation, an alarming number of human rights violations. The last Special Report on Haiti described the activities of the Commission between the coup d'état of September 29, 1991 and February 1994.

7. The above-mentioned report describes the steps taken by the OAS and the United Nations Organization (UN) to facilitate political dialogue between the parties concerned, with a view to President Aristide's return and the restoration of democracy in Haiti. These steps occurred in the context of various agreements: first, the Washington Agreements of February 1992, which were ignored by the de facto authorities, and up to the Governors Island Agreement and the subsequent New York Pact, which were both signed in July 1993. These latter agreements facilitated the Haitian National Assembly's confirmation of the candidate proposed by President Aristide for the post of Prime Minister.

8. Almost at the same time as the confirmation of Robert Malval as Prime Minister, the OAS recommended the lifting of the embargo imposed on October 8, 1991 on the de facto Government of Haiti. Also, the UN Security Council proclaimed the immediate suspension of the sanctions imposed on June 16, 1993. The same report contained an analysis of the process related to the creation of the OAS/UN International Civilian Mission up to the time it was evacuated from Haiti in October 1993, when the Haitian soldiers ignored the Governors Island Agreement and intensified its repression against the people, particularly against the sectors made up of Aristide's supporters. The prospects of a return of the democratic regime caused fear and opposition in military circles.

9. During its visit, August 23-27, 1993, the Commission found people terrorized by soldiers and the paramilitary groups assisting them, called attachés or zenglendos, who operated with full

impunity in view of the inefficiency and subordination of the judicial authorities, who sometimes feared reprisals by representatives of the Armed Forces.

10. During the period covered in that special report, the systematic violation of human rights continued after the Governors Island Agreement was signed. Despite steps taken by the international community with respect to the lifting of the embargo, the situation continued to worsen and became critical as of September 1993. Most of the acts of violence were directed toward preventing the installation and functioning of the new government, and some of the newly appointed civil servants were unable to take control of their offices, while others had to abandon their homes after receiving death threats.

11. The climate in Haiti continued to be characterized by repression and terror. The soldiers acted with greater cynicism, as was clear with the public assassination of President Aristide's prominent supporter Antoine Izméry in September 1993 and, one month later, the assassination of the Minister of Justice Guy Malary, as well as the acts of intimidation perpetrated against members of the OAS/UN International Civilian Mission. In rural areas, there was an increase in cases of arbitrary arrest, beatings, illegal raids and confiscation of property, disappearances, and torture, leading more and more persons to go into hiding or to abandon their homes. Throughout the country, violations occurred with the active participation or the acquiescence of the police and the military forces. The violence was directed against the unarmed civilian population, which at no time took recourse to violence against representatives of the state.

12. On September 23, the UN Security Council, by Resolution 867, approved the dispatch of a mission to Haiti (UNMIH), composed of 1,300 persons who would act as supervisors of the police and military instructors and included a construction engineering unit. However, the acts of violence organized by the so-called Front for Advancement and Progress in Haiti (FRAPH) and by other paramilitary groups prevented disembarkation from the "Harlam County" that transported members of the technical assistance mission (UNMIH). The United States Government ordered the withdrawal of the boat, and Canada withdrew a detachment of 50 policemen.

13. Considering that the agreements entered into for the restoration of democracy in Haiti had not been observed, the UN Security Council, by Resolution 873 of October 13, 1993, reinstated the oil and arms embargo against Haiti and froze the Haitian military authorities' financial assets abroad. In the same spirit, the Permanent Council of the OAS issued Resolution 610 of October 18 and instructed the Special Commission responsible for monitoring compliance with the trade embargo in Haiti to resume its activities. This embargo was followed by a naval blockade authorized by the UN Security Council, since the Head of the Haitian Army General Raoul Cédras refused to step down. Following the naval blockade, observers from the OAS/UN International Civilian Mission were evacuated to the Dominican Republic, and the Government of the Dominican Republic placed its entire border with Haiti under surveillance.

14. Given the lack of progress in obtaining President Aristide's return to Haiti and the fact that the political situation remained deadlocked, representatives of four "Friends of Haiti" countries (Canada, the United States, France, and Venezuela) met in Paris on December 13, 1993 and

decided to send a high-level military mission to Haiti to speak with the Haitian military leaders, who refused to receive it.

15. As a part of the efforts to find a solution to the Haitian crisis, President Aristide convened a conference in Miami, January 14-16, 1994, which culminated in an appeal by the deposed Constitutional President for unity among the Haitian people and a request for support and prompt observance of the Governors Island Agreement and the New York Pact, also with a recommendation for the start of the process for the appointment of a new Prime Minister and a government of reconciliation.

16. The Special Report on Haiti that the Commission submitted to the 24th OAS General Assembly in Belem do Pará concluded as follows: "During the period in question, the Commission recorded many deaths whose political connections were fully demonstrated by the fact that the military could instigate or stop them. Furthermore, as in the present situation, not only did it provoke and sponsor them, but the soldiers also failed to investigate and punish the perpetrators of these murders, who operated in death-squad like fashion. This prompts the conclusion that they operate because they are granted impunity by the military."

CHAPTER II: THE COMMISSION'S ACTIVITIES IN HAITI IN 1994

1. IACHR Report to the Permanent Council of the OAS

17. By invitation of the Permanent Council of the OAS, representative of the IACHR Professor Claudio Grossman testified before that political body on May 11, 1994 on the human rights situation in Haiti, pointing out that the Commission was continuing to give priority to observing the human rights situation in that country. He indicated that on the basis of the visits carried out, the Commission noted that the abuses performed by military and paramilitary elements took place with full impunity, that the general situation of human rights in Haiti continued to worsen severely, and that there was no judicial authority that could protect people from these violations.

18. Thus, by virtue of the regime of terror promoted by the Armed Forces and its continued rejection of the political agreements aimed at restoring democracy in Haiti, he announced the Commission's decision to carry out a further on-site visit, starting on May 16, 1994.

2. IACHR's On-site Visit, May 16-20, 1994

19. During its 84th period of sessions that took place in February 1994, the IACHR decided to carry out an on-site visit, in light of the worsening human rights situation in Haiti. The observation visit took place May 16-20, 1994.

20. The Commission's delegation was composed of its members Dr. Patrick Robinson, Ambassador John Donaldson, and Professor Claudio Grossman. It was assisted by Executive Secretary of the IACHR Dr. Edith Márquez Rodríguez, Senior Specialist in charge of Haitian Affairs Dr. Bertha Santoscoy-Noro, IACHR Attorneys Relinda Eddie and Isabel Ricupero, OAS interpreter Serge Bellegarde, and secretary of the delegation Cecilia Adriaola.

21. During its visit, the Commission met with the following eminent persons: Prime Minister Robert Malval, accompanied by Ministers Victor Benoit, Rosemont Pradel, Louis Dejoie II, Berthony Berry; Director of the OAS-UN International Civilian Mission Ambassador Colin Granderson and a member of the Mission, Tiebilé Dromé; Monsignor Lorenzo Baldisseri, the Apostolic Nuncio; President of the Chamber of Deputies, Frantz Robert Mondé, and President of the Senate, Firmin Jean-Louis. The Commission also requested a meeting with Haitian Armed Forces Head General Raoul Cédras and members of the Staff and with the Chief of Police Lieutenant-Colonel Michel François, but received no reply.

22. The Commission also met with the Coordinator of the former Presidential Commission, Father Antoine Adrien, and with representatives of nongovernmental organizations--popular grassroots bodies, human rights groups, and leaders of various political parties--with the aim of collecting information on the human rights situation in Haiti. Similarly, meetings were held with radio and newspaper representatives, who provided testimonies on the situation regarding freedom of expression in Haiti, and with representatives of the industrial sector and of various churches.

23. The lack of authorization prevented the delegation from visiting the National Penitentiary of Port-au-Prince and gaining first-hand information on the legal situation of prisoners and on the general conditions in which the detention center is maintained.

24. During its visit, the Commission collected abundant information and listened to the testimonies of the victims of human rights violations. Thanks to the cooperation of members of the International Civilian Mission and human rights groups helping to coordinate interviews with victims, who did not accept to meet with the Commission at the place where interviews were being conducted for fear of being identified, the IACHR delegation broke up into five groups in an attempt to deal with a large number of complaints at secret locations.

25. A fact that revealed the sound basis for the fear of the Haitian people was that on the date that had been fixed for receiving individual complaints, the Delegation was informed that the hotel was surrounded by armed men. This created a situation of panic among the petitioners, who fled into a room, refusing to come out for several hours. Subsequently, with the help of the Venezuelan Representative Ambassador Elsa Boccheciampe, the IACHR delegation managed to get the Haitians out in various automobiles, and they were taken to a place far from the hotel, from which they could return home without being followed.

26. The delegation was able to verify the serious worsening of the human rights situation in Haiti since its last visit in August 1993, and attributed responsibility for those violations to the de facto Haitian authorities, whose behavior justified accusations against them for the perpetration of international crimes, implicating the responsibility of individuals.

3. Visit of observation on the haitian refugees' situation in The Bahamas

27. Following its visit to Haiti and at the prior invitation of the Government, the Commission traveled to The Bahamas for the purpose of observing the situation of Haitian refugees in that country, where it carried out a visit, May 22-27, 1994. The special IACHR delegation was composed of Professor Michael Reisman, President of the Commission; Dr. Leo Valladares Lanza, Vice-President; and Ambassador John Donaldson. The Commission was assisted by Dr. Edith Márquez Rodríguez, Executive Secretary of the Commission; Dr. David Padilla, Deputy Executive Secretary; Dr. Relinda Eddie, Human Rights Specialist; and Mrs. Rosario McIntyre, Secretary of the IACHR.

28. During its stay, the IACHR delegation had the cooperation of the Government of The Bahamas, official agencies, and representatives of nongovernmental organizations.

29. The Commission met with the following persons: the Prime Minister, Mr. Orville A. Turnquest; the Minister of Social Development, Mrs. Theresa Moxey Ingraham; Sir Lynden Pindling, Leader of the Opposition; Sir Clement Maynard; Dr. Bernard Nottage and Independent Senator Fred Mitchell; Mark Wilson, Permanent Secretary in the Ministry of Public Security and Transportation; and representatives of other ministries; Mrs. Marina Ginton, Director of the Red Cross; Winifred Murray, an official of the Department of Welfare; and Charles Drummond, Director of the Salvation Army. Representatives of various churches also met with the delegation.

30. The Commission's delegation visited Haitian shanty towns in Grand Abaco (Marsh Harbour, Treasure Cay), Grand Bahama (Freeport), Eleuthera, and New Providence. It also visited the Carmichael Road detention camp.

31. The Commission was impressed by the fact that The Bahamas provided a whole series of basic social services for Haitians fleeing their country, and Haitian children attend school in the same conditions as Bahamian children. This meant that The Bahamas was absorbing a proportionately larger share of the Haitian diaspora than any other state in the hemisphere, a fact that weighed heavily on its budget and on its infrastructure. The Commission therefore considered that The Bahamas deserved to receive assistance from the international community.

4. Submission of the Report on Haiti to the 24th OAS General Assembly

32. The Special Report on the Situation of Human Rights in Haiti was submitted to the 24th Ordinary Meeting of the OAS General Assembly, which took place in Belem do Pará, Brazil, June 6-10, 1994. Also during this meeting, President of the IACHR Professor Michael Reisman and IACHR member and Rapporteur for Haiti Dr. Patrick Robinson submitted to the Ad Hoc Meeting of Foreign Ministers and to the OAS General Assembly an additional report on the visit

recently made to Haiti, May 16-20, 1994, in accordance with the request contained in Permanent Council Resolution 630. Also present at the General Assembly were Vice-Presidents of the Commission Dr. Leo Valladares Lanza and Ambassador Alvaro Tirado Mejía who were assisted by Executive Secretary Dr. Edith Márquez Rodríguez, Deputy Executive Secretary Dr. David Padilla, and Attorney in charge of Haitian Affairs Dr. Bertha Santoscoy-Noro.

5. Arrangements for a Further On-Site Visit

33. Considering that the expulsion of the International Civilian Mission (July 11, 1994) meant there was no presence of any international agency recording in a coordinated way the systematic violations occurring in Haiti, President of the Commission Prof. Michael Reisman instructed the Secretary to start making relevant arrangements for a further on-site visit. The Commission issued a press release on July 27, 1994, expressing its concern with the International Civilian Mission's departure and indicating its decision to make a visit to Haiti.

34. On August 8, the Secretary requested an interview with the Head of the Armed Forces and the Staff, which was refused at end-August. In view of the soldiers' negative reaction and logistical problems caused by the suspension of all commercial flights and the lack of authorization from the de facto Government for private flights to land, the Commission published a second press release on August 31, denouncing the cold-blooded assassination, committed ten days earlier, of Father Jean-Marie Vincent and announced its intention to devote a part of its next session, in September 1994, to a detailed review of the situation in Haiti and measures that could be taken to contribute to alleviating the continuous pattern of human rights violations in the country.

6. Hearings at the 87th Period of IACHR Sessions, September 19-30, 1994

35. During its 87th period of sessions, the Commission received in audience Dr. Marco Tulio Bruni Celli, UN Rapporteur on the human rights situation in Haiti, who took the opportunity to state that the environment in Haiti warranted the development and formalization of plans for closer cooperation with other intergovernmental organizations, which he felt could be achieved with the IACHR, within the framework of the promotion and defense of human rights, by virtue of the jurisdiction enshrined in the American Convention on Human Rights.

36. The Commission also received in audience Ambassador Jean Casimir, Representative of the Haitian Permanent Mission to the OAS, who described before the Commission the events that had occurred most recently in Haiti in regard to the political situation and human rights. Ambassador Casimir called upon the Commission to establish a presence in Haiti as soon as possible, even before October 15, 1994, for the purpose of observing the human rights situation and providing assistance for the country's democratization plans.

37. Ambassador Casimir explained that the wish of the democratic Haitian Government was for the Commission, in addition to carrying out an on-site visit, to prepare a program of activities not only based on observations of human rights violations, but also including a program of prevention and promotion of the rights of individuals, to be implemented in the short and medium terms. This program would contain advice on measures for financing such activities. He added that, to the extent possible, such a program could be associated with the Unit for the Promotion of Democracy, the Inter-American Court on Human Rights, the Inter-American Women's Commission, and any other institution that the IACHR considered it useful to include.

38. Among representatives of nongovernmental organizations received at hearings was Mr. William O'Neill of the National Coalition for Haitian Refugees, who requested the Commission to carry out an emergency visit to Haiti, so that its presence might have a dissuasive effect on human rights violations and to let the Haitian people know that they had not been abandoned by the international agencies responsible for promoting the defense of personal guarantees. Mr. O'Neill stressed the importance of the presence of human rights observers in Haiti to inform the international community on complaints of violations, especially at a time when the OAS/UN International Civilian Mission was not in the country.

39. Lastly, the Commission received the following representatives of nongovernmental organizations at hearings: Prof. Rhonda Copelan (International Women's Human Rights Clinic, CUNY Law School), Dr. Deborah Anker and Nancy Kelly (Women's Refugee Project), Jennifer Green (Human Rights Program, Harvard Law School), Dr. Wallie Mason and Anna Marie Gallagher (Center for Human Rights Legal Action), Beth Stephens (Center for Constitutional Rights); Sabine Millien (Haitian Women's Advocacy Network), Portia R. Moore and Joyce Jones (Morrison and Foerster), and Jacqueline A. McNeal, who wrote a report on the grave human rights situation prevailing in Haiti stressing in particular the women's situation. At the same time, the Commission was handed over various documents on alleged human rights violations.

40. Also presented to the Commission was one of the victims of human rights violations, who testified regarding the atrocities personally borne at the hands of soldiers in Haiti.

41. The International Women's Human Rights Clinic expressly requested of the Commission: (a) that the IACHR recognize rape as a form of torture in the Convention and cover such violations in its special reports; (b) that it send an emergency mission to Haiti for the purpose of compiling new information; (c) that it adopt a very special leadership role to achieve the disarmament of the army and the police; (d) that an international criminal tribunal be established to deal with violations committed in Haiti; and (e) that proposals be drawn up for a methodology of investigating human rights violations against women in Haiti.

7. IACHR On-Site Visit, October 24-27, 1994

42. Following its 87th period of sessions, September 19-30, 1994, the Commission accepted the invitation of the Constitutional Government of Haiti to carry out an on-site visit to observe the human rights situation in the country. This visit took place October 24-27, 1994.

43. The Delegation was composed of IACHR President Prof. Michael Reisman, Commission members Mr. Patrick Robinson and Prof. Claudio Grossman, Senior Human Rights Specialist in charge of Haitian Affairs Dr. Bertha Santoscoy-Noro, Attorneys of the Commission Dr. Relinda Eddie, Dr. Meredith Caplan, and Dr. Isabel Ricupero, OAS interpreter Mr. Serge Bellegarde, and IACHR secretaries Mrs. Cecilia Adriazola and Mrs. Gloria Hansen.

44. During its visit, the IACHR Delegation met with the President of the Republic Mr. Jean-Bertrand Aristide, to whom it expressed its deep satisfaction at the restoration of the democratic regime in Haiti. The Delegation reiterated its interest in maintaining cooperation on the study of all matters relating to its terms of reference.

45. The Delegation held interviews with the then Chief of the Armed Forces, General Jean-Claude Duperval, to obtain information on the changes that would be made within the army and the police, in accordance with the decisions that had been taken at the international and national levels.

46. The IACHR Delegation also held discussions with Director of the OAS/UN International Civilian Mission Ambassador Colin Granderson, and Head of the Human Rights Directorate Mr. Tiébilé Dromé. It also met with the diplomatic representatives of the five "Friends of Haiti" countries, namely, Argentina, the United States, Canada, France, and Venezuela; with members of Parliament, with Coordinator of the former Presidential Commission Father Antoine Adrien, and with Mayor of Port-au-Prince Mr. Evans Paul.

47. Similarly, the Delegation met with representatives of human rights organizations, with grassroots groups, with leaders of political parties, and with representatives of radio stations, the International Red Cross Committee, unions, the Chamber of Commerce, the industrial sector, and various religious denominations.

48. The Delegation visited the National Penitentiary in Port-au-Prince and traveled to the towns of Saint-Marc and Gonaïves, where meetings were held with victims of human rights violations committed during the period of military dictatorship. The Delegation visited the penitentiaries in the above-mentioned towns to collect information directly on the legal situation, the hygienic conditions, and the food of prisoners, as well as general conditions in the prisons.

49. During its stay, the Commission received substantial information on the general situation in Haiti and numerous complaints from victims of human rights violations committed by the dictatorial regime. That information will be analyzed in Chapter IV of this report.

CHAPTER III: THE POLITICAL SITUATION IN HAITI

1. Introduction

50. The purpose of this chapter is to provide information on how the political process is being pursued in Haiti and on the negotiations and steps taken by the OAS and the UN with the aim of finding a solution to the Haitian crisis. The Commission does not claim that the information it provides is exhaustive. It merely gives an account of the most significant decisions taken by the international community since January 1994, the political reactions in Haiti, and their impact in regard to human rights.

2. Return of the OAS/UN Mission

51. Given the stalemate in the Haitian political situation and the worsening of the human rights situation, in early January 1994 OAS/UN Special Envoy Mr. Dante Caputo recommended the return to Haiti of the International Civilian Mission. On January 26, the first group of 22 observers arrived there, to be joined later by the rest of the team, which was in Santo Domingo. Upon its arrival, the International Civilian Mission concentrated on Port-au-Prince and observed a resurgence of violence in both the capital and its environs. The number of murders was still alarming, especially extrajudicial executions. In certain cases, the International Civilian Mission obtained information that allowed it to conclude that members of the Armed Forces, their auxiliaries, and FRAPH members were responsible. In other cases, testimony received by the Mission pointed to armed civilians as the aggressors, but it was not possible in such circumstances to establish whether these were attachés or armed bands acting with the complicity of the Armed Forces.

52. Within two months of the OAS/UN International Civilian Mission's arrival, it published 11 press releases pointing out the worsening of the human rights situation, the wave of repression in rural areas, disappearances, and the existence of clandestine detention centers. Notwithstanding the presence and the efforts deployed by the International Civilian Mission, the situation continued to worsen and became critical toward the end of April, when a number of FRAPH militants and soldiers massacred more than 20 persons in Raboteau, which is an area of Gonaïves.

3. New Efforts to Pursue the Negotiation Process

53. With February 1994 came the so-called Parliamentarians' Plan, which proposed the appointment of a new Prime Minister, the withdrawal of General Cédras, the passing of the amnesty law, and the approval, once the new Government had been installed, of the law creating a police force. Finally, it provided for the return of President Aristide, but fixed no date for this. The plan failed because of a lack of support from any of the "Friends of Haiti" countries. Neither was it accepted by President Aristide, because this plan represented a departure from the Governors Island Agreement.

54. Also in February, the Senate became divided when five senators of the Alliance for Parliamentary Unity and eight senators elected in the controverted elections of September 18,

1993 violently expelled President of the Haitian Senate Firmin Jean-Louis together with twelve democratic elected senators and appointed Bernard Sansaricq. Despite the fact that this implied a parallel representation of the Senate, the faction led by Bernard Sansaricq never was recognized by the international community.

55. On March 23, the UN Security Council adopted Resolution 903 whereby the term of office of the UN Mission (UNMIH), which had in fact not yet been deployed in Haiti, was extended to June 30, 1994 and requested the Secretary-General to inform it when the necessary conditions existed for the dispatch of that Mission. Also in March, the OAS and the UN launched an appeal in favor of a so-called Humanitarian Action Plan aimed at meeting the most urgent needs of the Haitian people. The proposal to implement the plan of assistance was evaluated at \$62.7 million, which would be distributed in various areas, namely, health, nutrition, agriculture, and education. As contributions did not prove sufficient, the two organizations had to make an appeal to obtain funds available within the context of their national programs in order to carry out the activities.

56. In his April report, the UN Secretary-General indicated that the negotiations conducted to that date had not led to concrete progress, and it was therefore necessary to recommend that a more precisely Haitian solution be found. He therefore stated that it would be desirable for those involved, with the support of the international community, to resume a real role in this process. He added that the international community, particularly the most concerned countries, should seek unity in its approach at this stage, taking into account the recent stalemate in the negotiations.

4. Widening of Sanctions under the Embargo and its Political Impact

57. On the one hand, the two-week hunger strike by well-known human rights defender and director of the TransAfrica group Randall Robinson, the arrest of six members of Congress who were demonstrating in front of the White House, and the sharp criticism by President Aristide of the Clinton Government's policy. On the other hand, the criticism by nongovernmental human rights groups on the lack of political will to take firm decisions to reinstate Aristide in power and to change the policy of summarily repatriating Haitian refugees and the worsening human rights situation in Haiti led to a revision of the United States Government's policy. There was also talk of requesting the UN Security Council to apply a total embargo against the de facto regime in Haiti.

58. Following the change in policy announced by the United States Government, Adviser on Haiti at the State Department Lawrence Pezzullo resigned on April 27 and was replaced as Special Adviser by William Gray, a Democrat and former member of Congress.

59. Among efforts made to resolve the crisis in Haiti by peaceful means, the UN Security Council on May 6 approved Resolution 917 broadening the sanctions under the embargo imposed on Haiti in October 1993, which had not had the desired effect, mainly along the lengthy border between Haiti and the Dominican Republic.

60. The sanctions covered in Resolution 917 would enter into force within 15 days, and as of that date every state would: 1) deny permission to any aircraft to take off, land, or fly over its territory if the aircraft's destination or place of departure was Haitian territory, except where such flights had been approved for humanitarian reasons; 2) ban the entry on its territory of any military officials from Haiti, including members of the police and their immediate family members and the main participants in the 1991 coup d'état and their family members; 3) prohibit the import into its territory of any goods and products originating in Haiti and exported from that country, except those sent for humanitarian reasons; and 4) be urged to impose an immediate freeze on the funds and financial resources of the above-mentioned persons.

61. In its Resolution 917, the Council warned in five points that the sanctions would not be fully removed until:

a) the withdrawal of the Commander-in-Chief of the Haitian Armed Forces and the resignation or departure from Haiti of the Chief of Police of Port-au-Prince and the Chief of Staff of the Armed Forces;

b) a total change, through resignation or departure from Haiti, in the top staff of the police and the high military commands, as provided for in the Governors Island Agreement;

c) the adoption of the legislative measures provided for in the Governors Island Agreement, as well as the creation of adequate conditions for the organization of free and fair legislative elections within the framework of a full restoration of democracy in Haiti;

d) the establishment by the authorities of adequate conditions for the deployment of the United Nations Mission in Haiti (UNMIH); and

e) the return, as soon as possible, of the democratically elected President and the maintenance of constitutional order, these conditions being necessary for full observance of the Governors Island Agreement.

62. In view of the deterioration in the human rights situation in Haiti, the Permanent Council of the OAS, by Resolution 630 of May 9, strongly condemned the massive violations committed under Haiti's military regime and mentioned, in that connection, the recent reports of massacres and arson that occurred in Cité Soleil, Borgne, and Raboteau, which represented a serious obstacle to full pursuit of the proposals whose implementation was sought by the Ad Hoc Meeting of Foreign Ministers and an attempt to nullify any proposal for a total exercise of the Haitian nation's political sovereignty.

63. In the same resolution, the Permanent Council requested the IACHR to give priority to investigating cases of massive executions, sexual abuses, and kidnapping of minors, especially when these were used as methods of political terror, and to inform the General Assembly at its 24th ordinary period of sessions of the results of the next observation visit in Haiti.

64. Prior to the date when Resolution 917 adopted by the UN Security Council was to come into force and in open defiance of the international community, Emile Jonassaint, a magistrate of the

Supreme Court, was designated Provisional President of Haiti, with the backing of five senators led by Sansaricq and supported by the military establishment, in the presence of Head of the Armed Forces Raoul Cédras.

65. The appointment of Jonassaint was immediately rejected by the UN and the OAS. The latter's Permanent Council unanimously declared that the Haitian crisis would be solved only with the return of Aristide and that any action taken by the illegitimate government, including any call for elections, would be considered worthless. Subsequently, because of the lack of legitimacy in the appointment of Jonassaint, politicians who supported him were isolated, and the Chamber of Deputies indicated that it would not recognize that government or any decisions it adopted.

66. The IACHR, which was present in Haiti at that time (from May 16 to 20), indicated that the fact of installing a "government" without a popular vote and of contravening the Haitian Constitution represented flagrant violation of the political rights of the Haitian people and of the rights to political participation enshrined in Article 23 of the American Convention on Human Rights.

67. The IACHR carried out a visit to observe the situation of human rights in Haiti. During this visit, in spite of having been prevented by the military authorities from carrying out a part of its work agenda and the fear expressed by many persons of being interviewed in public places, the Commission met at clandestine locations and obtained abundant information.

68. At the end of its visit, the Commission provided the information, at a press conference, that because of the numerous testimonies of victims of violations, it was able to report on the serious deterioration in the situation of human rights in Haiti since its last visit in August 1993. The documentation received by the Commission indicated, among other violations, 133 cases of extrajudicial executions that had occurred between February and May 1994. Also, the Commission received information on the existence of severely mutilated corpses in the streets of Port-au-Prince and directly verified one such case. The Commission pointed out that the purpose of these acts was to terrorize the people.

69. Given the military establishment's refusal to come to a solution of the political crisis, the sanctions imposed in UN Resolution 917 entered into force on May 21, 1994.

5. Resolution 6/94, "Call for a Return to Democracy in Haiti," by the Ad Hoc Meeting of Foreign Ministers of the OAS

70. During the 24th ordinary meeting of the OAS General Assembly, which took place in Belem do Pará, Brazil, June 6-10, 1994, the Ad Hoc Meeting of Foreign Ministers, taking account of the reports submitted by the IACHR and by the OAS/UN International Civilian Mission, issued Resolution No. 6/94, "Call for a Return to Democracy in Haiti," in which it condemned the continuation of delaying and intimidating tactics by the de facto military authorities and the repression exercised by the latter against supporters of democracy.

71. In this resolution, a request was also made: 1) for support to strengthen the International Civilian Mission so that it could increase its staff; and 2) for the IACHR to continue drawing attention to violations against the Haitian people's human rights, to pursue its investigations on the conduct of the de facto authorities so as to help identify those responsible for the violations committed, to cooperate with the Government of Haiti in the preparation and implementation of programs to reform the country's judicial institutions, and to continue cooperating with the International Civilian Mission.

72. Finally, Resolution 6/94 urged all member states to support the UN's measures to strengthen its mission in Haiti (UNMIH), so that it can assist in restoring democracy by making the Armed Forces a professional body and training the new police force, helping to maintain public order, and protecting the staff of international organizations and other organizations participating in humanitarian and human rights efforts in Haiti. The Resolution also contained an appeal to the international community to cooperate in dealing with the problem of persons fleeing Haiti and to help in attending to their requests for asylum in their capacity as refugees, offering them protection when they meet the relevant conditions.

6. Measures to Force the Haitian Military Authorities to Leave

73. On June 10, the United States Government announced its determination to seek the economic, financial, and air isolation of Haiti, in a further attempt to force the soldiers to leave power. Consequently, President Clinton ordered the suspension of United States commercial flights to Haiti as of June 25, thus giving time for United States citizens residing in that country and wishing to leave it, to do so. Canada and Panama adopted similar measures. As of that date, the only air communications from Haiti would be assured by the Dutch company ALM and by Air France, which later also suspended their flights.

74. On June 30, the UN Security Council issued Resolution 933/94, in which it requested the Secretary-General to submit to the Council, by July 15, 1994 at the latest, a report containing concrete recommendations on the staffing, composition, cost, and duration of UNMIH, with a view to increasing and deploying that mission that would provide assistance, when the time came, to the democratic Government of Haiti to guarantee the security of the international presence, senior officials of the Government of Haiti, and essential installations and to provide assistance for the maintenance of public order and the holding of legislative elections, which would have to be convened by the legitimate constitutional authorities. It also decided to extend the mandate of UNMIH to July 31, 1994.

7. Expulsion of the OAS/UN International Civilian Mission

75. Without warning, the Haitian Minister of Foreign Affairs and Workship sent a note to the International Civilian Mission on July 5, informing it that its term of office had expired, that it was continuing to function in "undefined, irregular" circumstances, and that he was therefore

indicating that it should suspend its activities. Then on July 11, the de facto authorities handed Ambassador Colin Granderson, Director of the International Civilian Mission, a decree issued by the President who had not been recognized by the international community, Emile Jonassaint, in which he declared the members of the Mission "undesirable" and gave them 48 hours to leave Haiti. The Secretaries of the OAS and the UN immediately issued a joint statement, in which they condemned the deplorable act and ordered the evacuation of the Mission.

76. On the one hand, the expulsion of the International Civilian Mission was yet further proof of the clear contempt in which the de facto authorities held the international community. On the other hand, the Haitian people experienced a feeling of despair and abandonment in view of the human rights violations, which were becoming increasingly evident, against persons maintaining a direct rapport with the democratic regime.

77. By a press release of July 27, the IACHR expressed its concern about the expulsion of the International Civilian Mission, pointing out that this was depriving the Haitian people of a witness of the violations and robbing human rights institutions of a source of information that was essential for their work. As a result of these events, the Commission considered it suitable to carry out an immediate visit to Haiti, for the purpose of observing the human rights situation in accordance with the American Convention on Human Rights, to explore methods of ending those violations, and to develop alternative information media.

78. On July 27, the OAS/UN International Civilian Mission submitted a report entitled "Situation of Democracy and Human Rights in Haiti," covering the period January 31-June 30, 1994, in which it draws attention to the political repression carried out by soldiers and the numerous human rights violations resulting from them. The report also refers to incidents of harassment and intimidation to which members of the International Civilian Mission were subjected at the hands of the de facto authorities for the purpose of opposing their activities.

8. Resolution 940 of the UN Security Council

79. Given the recent events and the resurgence of violence in Haiti, President Aristide requested the international community, by letter of July 29 addressed to the UN Secretary-General, to take speedy and decisive action under the authority of the UN, so as to facilitate total application.

80. On July 31, 1994, the UN Security Council adopted Resolution No. 940/94, in which it:

"Acting under Chapter VII of the Charter of the United Nations, authorizes Member States to form a multinational force under unified command and control and, in this framework, to use all necessary means to facilitate the departure from Haiti of the military leadership, consistent with the Governors Island Agreement, the prompt return of the legitimately elected President and the restoration of the legitimate authorities of the Government of Haiti, and to establish and maintain a secure and stable environment that will permit implementation of the Governors Island Agreement..."

81. Following this resolution, the de facto authorities of Haiti immediately decreed a state of siege, and the idea of a United States intervention led the Haitian military to recruit many people by force and train them to defend the country.

82. The situation in Haiti became extremely tense in August, and some embassies withdrew their diplomatic staff. Telephone lines were often cut, leaving the country incommunicado. Attacks on the press became constant, and it was often prohibited, by decree of the de facto authorities, to distribute information from embassies (especially the United States embassy). Journalists who tried to enter the country via the Dominican Republic were not allowed to do so unless they paid \$500, and this gave them access only to certain events and locations.

83. The human rights situation in Haiti continued to worsen even further. The cold-blooded murder on August 28 of Father Jean-Marie Vincent, a close friend and supporter of Aristide, was one more act in the series of violations committed with impunity. His death was a harsh blow against the sector that supported the return of the democratic regime and Christian resources in grassroots communities. The Haitian Armed Forces continued to defy the international community, committing all types of violent act to pursue the repression against the unfortunate people, who were also carrying the burden of the sanctions applied under the embargo. An economy on the brink of collapse, with a terrible scarcity of goods and more than 80 percent unemployed, and obstacles created by the de facto authorities that tended to prevent the distribution of humanitarian assistance for nearly one month.

84. In mid-August 1994, the UN Secretary-General, Boutros Ghali, had announced the dispatch of a UN mission to hold discussions with the Haitian military authorities. His emissary Mr. Rolf Knutsson traveled beforehand to the Dominican Republic and from there, he was to make the necessary arrangements for them to receive the mission, which would deal with the peaceful departure of the military authorities. However, the latter let it be known that they would have to speak with the President of the Chambers of Deputy and Bernard Sansaricq who was acting as President of the Senate to discuss a national reconciliation plan, rather than the implementation of Resolution 940.

85. On August 30, Boutros Ghali announced the failure of the initiative in question, at the same pointing out that the situation in Haiti was intolerable for the Haitian people, given the repression and human rights violations, and indicated that countries that had received a mandate to intervene in Haiti should take their own decisions.

86. During the August 30 meeting of Foreign Ministers of the Caribbean Community (CARICOM), attended by United States Undersecretary of State Strobe Talbott and Undersecretary of Defense John Deutch, a number of points of Resolution 940 that referred to the multinational force were discussed. This resolution provided for an operation in two phases: the first, a multinational force that would invade Haiti and take control, and then a UN-UNMIH mission composed of 6,000 persons would maintain peace and control the Haitian security forces. For a start, four countries (Jamaica, Barbados, Belize, and Trinidad and Tobago) stated they would contribute with a CARICOM peace force of 266 members to maintain order in Haiti following the overthrow of the military authorities. The United Kingdom stated it would

participate in the multinational force. It was hoped that other countries would contribute during the second phase of the operation.

87. On the other hand, 88 UN observers, the Multinational Observer Group (MOG), were assigned at the end of August to the border between the Dominican Republic and Haiti to prevent contraband fuel and other goods entering Haitian territory, in accordance with the embargo decreed by the UN. Canada, Argentina, Jamaica, Barbados, and Antigua participated in this group. The Army of the Dominican Republic also dispatched 15,000 soldiers to the border region. However, according to certain information, contraband fuel continued to pass between the two countries.

9. Haitian Agreement Between the US Government and the Military

88. In view of the critical situation that Haiti was undergoing and an imminent invasion, the Commission stated, on August 31, that at its next session in September it would examine the Haitian situation in detail and any measures it could take to help alleviate the continuous pattern of human rights violations in that country.

89. On September 15, 1994, given the refusal of the military authorities to leave power, President Clinton announced the invasion of Haiti. The following day, he let it be known that as a last effort to avoid the armed intervention, a mission would be sent, composed of former President James Carter, General Colin Powell, and Senator Sam Nunn, to discuss terms for the departure of the military leaders from the country. On September 18, the United States Government issued information on the agreement obtained with General Cédras to leave power peacefully with a time limit until October 15, and during that period, the Haitian Parliament would work on the amnesty law. A part of the agreement stipulated that the Haitian police and military forces would work in close cooperation with the United States military mission. This agreement was received in various quarters with many questions.

10. Arrival of the Multinational Force

90. The Multinational Force headed by the United States arrived on September 19 in Port-au-Prince and would remain in the country until the arrival of UNMIH. On that same day, the OAS/UN Special Representative for Haiti Mr. Dante Caputo offered his resignation, indicating in his letter the total absence of consultation between the United States and the UN and the decision taken unilaterally in the Haitian process. Four days later, the UN Secretary-General appointed the former Foreign Minister of Algeria Mr. Lakhdar Brahimi as his Special Representative for Haitian Affairs.

91. In view of the pending disembarkation of United States marines, a large sector of Haitians had gathered in Port-au-Prince to observe their arrival and demonstrate their joy at what, for them, meant protection of their personal guarantees, when Haitian policemen dispersed people,

severely beating demonstrators in the presence of members of the United States force, who did not intervene. These acts of violence left a toll of two dead and several wounded. Days later, at Cap Haïtien, there was an armed clash between a patrol of the Multinational Force and Haitian military operatives, in which ten of the latter died.

92. The acts of violence were denounced by the Permanent Council of the OAS in its Statement CP/DEC. 21 (1006/94) of September 22, 1994, in which it requested the return of the International Civilian Mission to Haiti and urged the IACHR, in accordance with President Aristide's request for a visit to be carried out, to help defend and promote human rights in Haiti. In the same statement, the Council, like the UN, expressed its satisfaction with the progress that had been achieved in the quest for a peaceful solution to the Haitian crisis.

93. On September 29, 1994, the United Nations Security Council approved Resolution 944 asking the Secretary General to take the necessary steps for immediate deployment of observers and other members of the advanced group of the United Nations Mission in Haiti.

94. On October 5, 1994, the Haitian Parliament initiated the draft amnesty law for members of the military who took part in the coup that overthrew constitutionally elected Jean-Bertrand Aristide. The new bill contains an amendment to article 3 of the old 1860 amnesty law, which stipulates that, under the Constitution, only the head of state may grant amnesty, and only in political cases, that is, cases of crimes or offenses against the public interest (*res publica*), or against the country's interior and exterior security for crimes against public order, plus crimes and accessory offenses defined as such by the Penal Code. The law was passed on October 6, 1994.

95. Since the Governors Island Accord in July 1993, Haitian military leaders have demanded that they be given amnesty in exchange for the return of President Aristide. They have insisted on a broad law covering all violations resulting from the coup d'état of September 30, 1991.

96. On October 3, 1993, President Aristide had issued an amnesty decree covering the political violations committed from September 29, 1991 to July 3, 1993. This amnesty did not cover common crimes, nor would it protect against civil suits against those responsible for human rights violations committed in Haiti after that date. The decree was rejected by the military leaders, who demanded a law covering the entire period of the *de facto* regime.

97. On October 10, one day before his term was to expire, General Cédras announced he would leave the country and transferred command of the armed forces to Major General Jean-Claude Duperval, who had been officially appointed to that post by President Aristide in December 1993. Under the asylum granted by the Government of Panama, Generals Raoul Cédras and Philippe Biamby and 14 members of their families left the country on October 12. A week earlier, Lieutenant Joseph Michel François, the Haitian Chief of Police, had entered the Dominican Republic under a tourist visa issued by the Dominican Government authorizing him to stay there temporarily while he was arranging for permanent residence in some other country. Later, most of the officers of the same rank as Cédras left Haiti to take military attaché posts in various countries.

98. In a note of October 11, the OAS Secretary General announced the end of OAS sanctions against Haiti, after consulting with the ministers of foreign affairs of OAS member countries, and at the request of President Aristide. The suspension of commercial flights and international financial transactions with Haiti were lifted, while the other sanctions remained in force until President Aristide returned to office.

CHAPTER IV: THE SITUATION OF HUMAN RIGHTS IN HAITI

1. Introduction

99. This chapter deals with the situation of human rights in Haiti from January to August 1994. The analysis of the situation is based mainly on the information obtained during on-site visits carried out in Haiti in May and October 1994, through direct testimonies and documentation received from nongovernmental groups and individual complaints, and documentation received at the Commission's headquarters and in the information provided by the OAS/UN International Civilian Mission.

100. This chapter offers a general overview of the situation of human rights in Haiti during the period of January-August and presents examples of cases that illustrate the types of violation that the Commission observed most often. And new repressive methods are mentioned as used by the military or para military groups: the massacres against the rural population; the appearance, in Port-au-Prince's streets of mutilated and disfigured corpses; violence perpetrated against women and rape, are also covered and violations against children's rights. Most of the violations denounced to the Commission and described in this chapter refer to acts committed during the dictatorial regime.

2. Repression

101. Most of the violations recorded by the Commission refer to acts committed between January and September 1994 by representatives of the Armed Forces, paramilitary groups, and members of Revolutionary Front for the Advancement and progress of Haiti (FRAPH), whose operations were coordinated with the army and the police. Despite the condemnation by the international community, the harsh information on Haiti presented by OAS and UN agencies permanently responsible for monitoring human rights and by the International Civilian Mission, as well as the widening of sanctions imposed under the embargo, the military authorities did not meet human rights commitments. On the contrary, whenever there was an attempt at political expression, the soldiers intensified the repression against the Haitian people.

102. Since the coup d'état of September 29, 1991, an estimated 3,000 persons were murdered. In 1993, following the signing of the Governors Island Agreement, the repression escalated to alarming levels when the people, encouraged by this agreement, publicly expressed their support

for President Aristide. Cases of arbitrary arrest, beating, illegal search, confiscation of goods and arson, abduction, and torture increased, and this forced victims and their family members to abandon their homes and live underground. President Aristide stated, mid-1994, that the number of deaths had risen to 5,000.

103. The repression that was systematically carried out by the soldiers was aimed at destroying any type of organization, right of expression, or activity in support of the democratic regime. As of January 1994, the de facto regime applied new methods that were particularly effective for spreading terror among the people, including practices such as raping the wives or family members of militants in favor of Aristide's return. When the soldiers, attachés, or FRAPH members did not find such militants, they abused the women and children who were present. Sexual abuse was thus used as an instrument of repression and political persecution. During the IACHR's visit to Haiti in May 1994, in spite of victims' reluctance to denounce such crimes, the Commission received 21 reports of rape and sexual abuse and directly interviewed the victims of this horrible practice. On that occasion, the Commission pointed out that the international community had repeatedly recognized the universal nature of the rights of women, as well as the fact that these violations constituted one of the worst crimes against them.

104. Another method of terrorizing the people consisted of leaving in the streets of Port-au-Prince the severely mutilated corpses of victims, which were partly eaten by animals in view of the fact that the authorities in power took no action. These reprehensible acts had the dual purpose of preventing victims' identification by family members, thus preventing the latter from seeking legal recourse, and creating an atmosphere of repression to prevent any type of popular demonstration.

105. In the interior of the country also, the number and the brutality of human rights violations increased. The Commission obtained testimonies that irrefutably established the army's responsibility in the massacre of defenseless people in Raboteau, Gonaïves, Département of Artibonite, on March 22, 1994. There, 15-20 persons were executed with no justification whatsoever. Also, the army attacked people in the Départements of the Center (Saut d'Eau) and the North (Borgne). The Commission received information on the campaign of repression that was carried out in Borgne, where arson was used as a strategy of terror.

106. These attacks all showed similar characteristics: veritable military campaigns in which army units, assisted by FRAPH and other paramilitary groups, surrounded and erupted in localities under the pretext of combating subversive groups and locating illegal arms, indiscriminately beating up people and committing acts of arson, destruction of their crops and robberies, followed by arbitrary arrest. During such raids, farmers were forced to pay "ransom" so as not to become the victims of these abuses.

107. During the Commission's visit in May 1994, it also observed that most violations of which it was informed followed a systematic pattern of repression, revealing a political plan of intimidation and terror against the Haitian people, especially in sectors that supported President Aristide or that had demonstrated in favor of democracy in Haiti. Thus, in the marginal slums of Port-au-Prince, such as Cité Soleil, Sarthe, Carrefour, and Fonds Tamara, armed paramilitary groups carried out raids late at night, murdering and robbing people living there. At other times,

according to information received, victims were abducted; they were forced to get into vehicles and were led blindfolded to clandestine detention centers, where they were interrogated and tortured. Some of the victims were freed after several days, while others succumbed to the severe blows inflicted on them. During its stay in Haiti, the Commission received information on 133 cases of extrajudicial executions perpetrated between February and May 1994.

108. The Commission noted that the exercise of the right of assembly did not exist for those who supported the return of democracy. When groups of individuals tried to exercise it, they were arrested and brutally beaten by soldiers and policemen, who accused them of being terrorists. One example of these acts was the arrest of a group of 20 persons in Hinche, in the Central Département, on April 29, 1994.

109. The same situation occurred with respect to the right of expression. Information received by the Commission made it possible to confirm the constraints suffered by representatives of the Haitian press and radio who were subjected to acts of intimidation and repression, and this led to the self-censorship by the information media. Most radio stations concentrated on providing musical programs, for fear they would be destroyed, and news on the political situation in the country was spread by foreign journalists, who did so under many constraints and at their own risk.

110. Acts of repression and intimidation also affected members of the International Civilian Mission, who were harassed by the Haitian authorities on various occasions. On March 23, 1994, members of the Mission in the region of Hinche (Plateau Central) were assaulted by numerous demonstrators led by members of FRAPH, with local military authorities making no move to stop their acts and thus clearly showing their complicity with members of the attacking group.

111. At the end of its visit in Haiti on May 1994, the Commission concluded that the serious deterioration of the human rights situation in keeping with a plan of intimidation and terror against defenseless people. It held the authorities holding de facto power in Haiti accountable for these violations, since they engaged in conduct that justified accusations of international crimes that generate individual responsibilities.

3. Consequences of the Repression

A. The "marronage" phenomenon

112. Since the coup d'état in 1991, the climate of terror and lack of security that prevailed in Haiti led a large portion of the people to move to the interior of the country or from rural areas to the capital, in search of refuge. They were thus forced to abandon their homes and go into continuous hiding. In its report on Haiti of 1991, the Commission indicated that approximately 300,000 persons had been affected by this massive displacement. During its on-site visit in May 1994, the Commission stated its concern with the number of displaced Haitians who were

obliged to choose to live like fugitives in their own country. This continued to increase in alarming proportions.

113. The phenomenon of massive displacement as a result of the repression is known in Haiti as marronage (marronage) and has become a strategy used by the soldiers to eliminate all types of opposition to the de facto regime. The constant flight of a large portion of the population has damaged its ability to become organized, thus suffocating the political, social, and economic structures that might have represented a threat to the illegal regime installed by the military authorities.

114. Marronage has affected persons and organizations of different levels, including politicians, journalists, priests, members of human rights groups, grassroots groups, unions, and a large number of inhabitants of the highly populated slums. A high percentage of the cases of marronage involved persons who openly supported the democratic regime. For the most part, they were men, but there were also numerous cases of women or entire families who took refuge underground. Numerous civil servants of the legitimate Government were forced to go into hiding; this included the case of Mayor of Port-au-Prince Evans Paul, whose reinstatement under Prime Minister Malval was violently interrupted by armed men. Many grassroots organizations, such as rural cooperatives and development, educational, and civic associations also went into hiding, attempting to maintain contact and mutual help among their members, while others simply disbanded in the process of flight.

115. The common element in the marronage phenomenon was the fear experienced by these persons, which forces them to sleep away from their homes, moving every night to different locations so as not to be found, or moving to another location so as to flee repression. Unfortunately, displaced persons did not always find places where they can remain continuously, and this obligated some to leave their family life. For many of them it was impossible to get back with their families. In this way, there emerged a virtual disintegration of the family unit, and there were very frequent cases of displaced persons not managing to obtain news of their wives or children. As a result of the constant flight, jobs were abandoned, and political and social activities became restricted or disappeared.

116. The de facto regime's ability to make displace persons within the country itself was a result of the absolute impunity enjoyed by those carrying out the repression. For example, in some cases, local authorities ordered prisoners to leave the region once they had been freed or were arrested again. Some who tried to return were arrested and in some cases, murdered.

117. As stated above, the phenomenon of marronage began with the coup d'état of 1991, but this reached alarming proportions following the signing of the Governors Island Agreement, as a result of the resurgence of the repression by soldiers. As of 1993, with the emergence of FRAPH acting in complicity or with the help of the soldiers, veritable systematic attacks were launched against the people. One of these attacks was the burning down of a section of Cité Soleil, which left tens of dead persons, hundreds of homes destroyed, and thousands of persons displaced. Further examples of the collective displacement as a result of these attacks were the Raboteau massacres and the fires at Borgne.

118. Another consequence generated by marronage is the economic problem, since when a person who represents the economic support of a family is forced to flee, the family's means of subsistence are cut off abruptly. In rural areas, displacement has meant that the fields remain deserted and crops are lost. In some cases, section chiefs have seized the lands and property of fleeing families.

B. Violence against women and sexual abuse

119. As mentioned above, since the coup d'état against President Jean-Bertrand Aristide, the illegal de facto regime has committed a multitude of human rights abuses against the civilian population, particularly since mid-1993 after the failure of the Governors Island Agreement. The destruction of democratic movements in Haiti has created a climate of terror, and women have been used as victims. The primary instruments of the repression inflicted on women and children in Haiti have been rapes and other types of violence and abuse committed by members of the army and police forces, their armed civilian auxiliaries, the attachés, paramilitary groups, and members of FRAPH, acting with complete impunity.

120. Women of varying ages and circumstances, from pregnant women to five year-old girls, are among the victims of rape. Women who played an important role in the formation of democratic institutions in Haiti were identified because of their political activities. Many Haitian women's organizations were attacked; others were destroyed. Other women were identified because of their personal links and family relationships, and reprisals were taken against them for the political ideas and activities of a spouse, son, father, nephew, or other male family member. Some women were identified because of their own status and role in helping the civil society. The fact of belonging to a popular organization or being involved in an activity whose purpose was to improve the local community was considered as the expression of a political opinion in favor of President Aristide. Numerous women were abused merely because they lived in a slum that supports President Aristide (Cité Soleil). Remaining alone to care for their children because their husbands had to flee or were murdered, many of them were easy, defenseless prey.

121. The OAS/UN Mission affirmed, in this respect: "It always happens in the same way: armed men, frequently soldiers or FRAPH members, violently enter the house of a political militant to arrest him. When he is not there and the family cannot say where he is, the intruders turn against his wife, sister, daughter, or cousin."

122. Sexual abuse against Haitian women was carried out in various ways, but with a single aim: to create a climate of terror among people supporting Aristide. Women were generally raped by several men on the same occasion. Pregnant women and those who had just given birth were not safe from these crimes. Often, a violation occurred in the home of the victim, in front of the children and other family members, and thus not only the woman, but the entire family was terrorized. In many cases, the woman was forced to witness the rape or murder of her daughter or other family member before being herself raped. In one case of which the IACHR was informed, a 15 year-old was forced to rape his own mother.

123. Other forms of sexual torture included blows to the breasts and stomach, often inflicted on pregnant women with the intention of causing them to abort or damage their ability to have children. Many women were brutally murdered by soldiers or attachés, who shot them or pushed sharp objects in their vagina. In addition to the sexual abuse, women were illegally detained and subjected to other forms of torture that resulted in mutilation.

124. Haitian women have rarely presented complaints about violations to the police, partly because of fear of reprisals, since in many cases the perpetrators were soldiers who were part of the police. Historically in Haiti, the police force has been a part of the army, and it is essentially soldiers who carried out policing functions. In the few cases where women attempted to report violations committed by soldiers and their auxiliaries, the authorities threatened them with reprisals, or simply did not investigate their complaints. On the other hand, there was the corruption and inefficiency in the judicial system and, in practical terms, in contradiction with the 1987 Constitution (Articles 42 and 43), the army, rather than the civilian authorities, investigated such cases. On the other hand, neither does the shame imposed by society on a woman who has been raped encouraged her to make a report on the attack. This underlines the importance of clearly recognizing sexual violence as a serious human rights violation.

125. The wounds inflicted on women who were abused sexually are both physical and psychological. Many of them feel shame and, what is more, cannot return to their hometowns for fear of rejection. In numerous cases, their private lives and family relationships have deteriorated. In other cases, the results of medical tests carried out on some women showed them to be HIV positive, while other women died because of sexual abuse.

126. During its visit to Haiti in May 1994, the IACHR received news of 21 cases of rape. Victims who gave their testimonies before the IACHR Delegation refused to give their names for fear of reprisals. The Commission presents a summary report of two cases which have the same elements and characteristics as contained in the 21 cases of rape.

"The victim is 42 years old and a member of the National Front for the Change and Democracy (FNCD). Her husband was murdered, and she was persecuted by members of FRAPH and "macoutes." In October 1993, about 7:00 or 8:00 p.m., members of these groups went to her daughter's house to find out where she was and kill her. Three men entered the house; the others remained outside. The men were dressed in olive green clothing and carried Uzis. They threatened her: "You support Aristide. You are a "Lavalas." We'll kill everyone we find in the house." Two of them raped her and they took away everything she had, including money. The victim stated that she had a medical certificate. After the above-mentioned events, the victim hid a few days at the home of friends, who finally asked her to leave because they were afraid. The victim and her five children now have nowhere to live. In May 1994, she received further threats and was beaten by two civilians".

"The victim is 46 years old. Around midnight on November 29, 1993 as she slept, three men entered her home. They were wearing olive green uniforms and carrying Uzis and pistols. Some wore hoods. A number of them raped her; they beat her and destroyed her property. They also threatened her, saying that if there was talk of the incident the next day on the radio, they would return and kill her. They told her what occurred took place because she was an Aristide

supporter. Although the neighbors heard noises, no one came out of their house to help her for fear of being killed".

127. This campaign of violations increased in intensity in early 1994. The OAS/UN International Civilian Mission pointed out that between February and July 1994, 77 cases of sexual violation were reported, including 55 against women who were militant or had close relations with male militants. Some human rights groups working specifically on the issue of women indicate that they have counted up to 18 violations in a single day, many of which were clearly reprisals for political activities. This use of sexual violence was documented in reports made by the IACHR, the OAS/UN International Civilian Mission, nongovernmental organizations such as Human Rights Watch and the National Coalition for Haitian Refugees, and a number of Haitian women who fled Haiti and obtained refuge in the United States.

128. The exhaustive and detailed information presented to the IACHR by representatives of nongovernmental organizations, such as Haitian Women's Advocacy Network, International Women's Human Rights of CUNY Law School, Human Rights Program, Immigration and Refugee Program of Harvard Law School, Women Refugees Project, Center for Human Rights Legal Action, Center for Constitutional Rights, MADRE, and the Law Office of Morrison and Foerster, clearly shows sexual violations and other types of violence against Haitian women as a form of reprisal, intimidation, terror, and degradation of women.

129. In the great majority of cases, it was demonstrated that the acts of sexual abuse were committed by representatives of the army and the police and their armed civilian auxiliaries, with the authorization or tolerance of the illegal regime. This therefore constitutes a violation of Article 5 of the American Convention on Human Rights, which deals with the right to humane treatment, and Article 11 concerning the protection of honor and dignity.

130. These abuses against Haitian women also constitute violations of other provisions of the Convention and of the American Declaration of the Rights and Duties of Man, as well as of other international treaties that Haiti has ratified and is obliged to respect: the Inter-American Convention to Prevent and Punish Torture and the Convention on the Elimination of All Forms of Discrimination Against Women. The relevance is also noteworthy of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women, recently approved at the meeting of the OAS General Assembly in June 1994 in Belem do Pará, Brazil.

131. In the past, the Commission considered a number of cases of sexual and other abuses against women, as a result condemning violations of the rights contained in the Convention and the American Declaration.

132. In the case of Haiti, sexual violations were the result of a repression for political purposes. The intention of those in power has been to destroy any democratic movement whatever, through the terror created by this series of sexual crimes.

133. The Commission considers that rape represents not only inhumane treatment that infringes upon physical and moral integrity under Article 5 of the Convention, but also a form of torture in the sense of Article 5(2) of that instrument.

134. Consistent with the definitions elaborated in the Inter-American Convention to Prevent, Punish and Eradicate Torture, which Haiti has signed, and the United Nations's Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Commission considers that the rape and other sexual abuse of Haitian women inflicted physical and mental pain and suffering in order to punish women for their militancy and/or their association with militant family members and to intimidate or destroy their capacity to resist the regime and sustain the civil society particularly in the poor communities. Rape and the threat of rape against women also qualifies as torture in that it represents a brutal expression of discrimination against them as women. From the testimonies and expert opinions provided in the documentation to the Commission, it is clear that in the experience of torture victims, rape and sexual abuse are forms of torture which produce some of the most severe and long-lasting traumatic effects.

135. The facts submitted to the Commission reflect that rape was neither random nor occasional but widespread, open and routine. Whether this occurred by direction of or with the encouragement or acquiescence of the illegal regime, the Commission considers that such use of rape as a weapon of terror also constitutes a crime against humanity under customary international law.

136. The Commission notes recognition in recent years of the gravity of rape in international human rights law, including the emphasis by World Conference on Human Rights on the gravity of violence against women in general and in particular, of "systematic rape..." brought to the fore by the atrocities in the former Yugoslavia, the approval by the General Assembly of the Declaration on the Elimination of Violence Against Women and most specifically, the reports of the Special Rapporteur on Torture to the Human Rights Commission who described rape in detention as a form of torture. We also note that in the international humanitarian law, torture has been treated as a "grave breach" of the Geneva Conventions by the UN Human Rights Commission and by the International Committee for the Red Cross. The Statute of the International Criminal Tribunal for the Former Yugoslavia incorporates rape as a "grave breach" of the Geneva Conventions (article 2) and a violation of the laws and customs of war (article 3), and, explicitly names rape as a crime against humanity (article 5(g)).

C. Violations of the rights of children

137. Children have also suffered violations of their human rights for the purposes of the repression carried out by soldiers. They have been victims of summary executions, attacks on their physical integrity, and other inhumane and degrading treatment. As a result of the wave of repression against the Haitian population, families and children have been affected. For example, the phenomenon of marronage mentioned above has led children to flee with their families and suffer the same dangers to which the adults have been exposed, putting a sudden stop to their

childhood and their school routine. In some cases, minors have been left completely on their own, since their parents were murdered.

138. In its report of July 1994, the OAS/UN International Civilian Mission noted that it had received news of 51 cases of human rights violations against children between February 1 and May 31. The ages of the victims varied between five months and 17 years. One half of the cases occurred in the Port-au-Prince slum, Cité Soleil. In spite of the fact that the authors of the violations wore civilian clothing, on some occasions they were identified by the local people as members of the Armed Forces or FRAPH. Similarly, the Mission indicated it had received news of 23 cases of extrajudicial executions, deaths in suspicious circumstances, and deaths as a result of torture or cruel treatment against children.

139. The Permanent Council of the OAS, by its Resolution 630, had expressed its concern with this type of violation and requested the IACHR to give priority to the investigation of child abductions. During its visit in May 1994, the IACHR received the testimony of members of the family of a four year-old boy who had been kidnapped in March 1994. According to the statement, three armed men arrived, saying they were looking for the child's father who was a member of a political organization of young people in Cité Soleil. When they did not find the man, they raped his wife and took away the child. The child was found unharmed four days later at a radio station.

140. Also during this visit, the Commission received information that mothers were raped in the presence of their children. In some cases, sexual violations were committed against girls aged 10 and 12 years. In the cases of arbitrary arrest, parents were detained along with their children.

4. Cases of Human Rights Violations

A. Right to life

141. As a result of the visits in Haiti carried out in May and October 1994, the IACHR observed an unprecedented increase in the number of extrajudicial executions. The Commission was able, thanks to information provided by local agencies for the defense of human rights and testimonies presented by family members of victims, to establish a large number of violations of the right to life, which is enshrined in Article 5 of the American Convention on Human Rights.

142. From January 31 to May 31, 1994, 210 cases of extrajudicial executions were recorded, according to data collected by the IACHR on the occasion of its on-site visit carried out in May. However, the OAS/UN International Civilian Mission has established 340 cases reported between February and June 1994.

143. The causes of these executions stemmed from the political situation in Haiti; the paralysis of the judicial system and the complicity of the police and the legal establishment blocked all attempts at investigation and official identification of victims; the police took no action to

identify and arrest the perpetrators of these violations. The official records at the morgue were not properly maintained; families of victims generally did not take any action before the law or the police, through fear of reprisals, and were not informed, in most cases, when the body of their family member has been identified. In addition, the impossibility of identifying corpses, which often appeared severely mutilated or partly eaten by animals, made it more difficult to go to court.

144. The information gathered by the IACHR shows, however, that these executions were carried out systematically and were mainly directed at civilian groups joining together because of shared political convictions, or at those who merely were members of sectors of society considered hostile to the de facto government: clergymen, peasants, students, and the urban poor. Although such executions have normally been attributed to armed civilians, the information received demonstrates the link that exists between the latter and members of the Armed Forces, and this makes it possible to conclude that these are paramilitary groups acting in the manner of death squads. In other cases, the direct participation of members of the Haitian Armed Forces and members or sympathizers of Revolutionary Front for the Advancement and Progress of Haiti (FRAPH) was proved by testimonies submitted.

145. Hereunder are some of the complaints received by the Commission during the on-site visits it carried out in 1994:

Wilner Elie

146. An active member of the Papaye Peasant Movement (MPP), Elie was knifed to death on January 18, 1994. He was executed at his home by a group of 15-18 masked men, in the presence of his 12 children who had first been handcuffed by the assassins.

Oman Desanges

147. He was murdered on January 26, 1994. His body was found in a Port-au-Prince street two days after he was abducted, with a cord around his neck, his hands tied, his eyes crushed, his right ear missing, his tongue cut, and traces of bullet wounds and machete chops on his body.

Oman Desanges was 27 years old. He was the president of the Youth for Progress Association, which was founded in 1990. Since September 1991, he had been forced to live underground to escape the soldiers who were looking for him. In February 1992, he tried to obtain political asylum in the United States, but his request was refused. On trying to return to his house in December 1993, he was jailed for five days, during which time he was savagely beaten. His mother then succeeded in obtaining his freedom by paying 300 gourdes (\$25).

Mitchel and Bernard Casimir and Louis Jeanty

148. During the night of April 26-27, 1994, a commando of heavily armed civilians wreaked terror for several hours in the area of Papo, Croix-des-Missions (north of Port-au-Prince), killing three persons, raping a young woman, and roughing up inhabitants, including an eight year-old boy.

Apparently, the attackers entered houses in small groups. In one house, the armed men killed the brothers, Mitchel (27 years old) and Bernard Casimir (20 years old) in their rooms. First, the attackers had tied up the victims' father and beaten him with the butts of their weapons, accusing the family of being responsible for the embargo.

In another house, the assaulters shot Louis Jeanty, who was trying to escape when they arrived. Jeanty was hit by a shot and fell to the ground, before he was riddled with bullets.

Throughout this operation, which lasted several hours, people remained totally without protection, since at no time did the police intervene.

Emmanuel Joseph, Merci Dieu Bontemps, St. Louis, and Serge Joseph

149. On May 23, 1994, the bodies of these four political militants were found in the Cité Soleil slum. All had been murdered by gunshots.

Emmanuel Joseph, 38 years old and a member of the "Tèt Ansam Cité Soleil" Association, was gunned down by two armed individuals who entered his house, had forced him to lie on the floor, and killed him with a burst of automatic gunfire.

Mr. Merci Dieu Bontemps, 43 years old, and Mr. St. Louis, 26 years old, both members of the Young Persons Association of Cité Soleil, were each executed with a bullet in the temple.

The body of Serge Joseph, a 19 year-old member of the Alliance of Revolutionary Patriotic Democrats, was found the same day. He had been murdered in the same manner, with gunshot wounds.

Given the information received locally, it can be concluded that the same group of individuals is responsible for the four murders. They are heavily armed civilians whose exact number could not be determined.

Marie Auxiliatrice Decossa

150. On June 15, 1994, in Port-au-Prince, three attachés and two soldiers in uniform entered the house of Marie Auxiliatrice Decossa, a militant in the "Sendika Nasyonal ti Machann-yo" organization. After reproaching her for her activities within this workers' union, they beat her up in the presence of her three children and took her outside. As she attempted to push away one of the soldiers, he became furious and shot her in the stomach. As a result of the wounds she received, Mrs. Decossa died the following day.

Jean Marie Vincent

151. During the night of August 28, 1994, Father Jean Marie Vincent was murdered by a group of heavily armed men who were waiting for him at the entrance to the residence of the Monfortain Priests in Port-au-Prince. Father Vincent had escaped two attacks in August 1986

and in August 1987. On the latter occasion, he was severely wounded, when a group of priests intervened to save his life during an attack on Aristide in the Fraiscineau area following a mass in memory of the peasants murdered during the Jean Rabel massacre.

Jean Marie Vincent had dedicated his life to the promotion of human rights and basic freedoms in Haiti. Founder of the peasant "Tet Ansam" movement of Jean Rabel, he was also a member of the "Caritas" and "Fonades" foundations for the economic development of Haiti.

Cases of abduction and forced disappearance

152. During the IACHR's on-site visit in May 1994, it received much information on cases of forced disappearance and abduction. Testimonies presented to the Commission show that the procedure most used in kidnappings was as follows:

153. Victims were abducted from their homes or in the street by armed civilians operating from vehicles. It was sometimes established that the abductors wore army or police uniforms. In most cases, they beat victims when they were abducting them, handcuffed them, blindfolded them, and took them to clandestine detention locations. In those places, detainees were interrogated regarding their political or union activities. Interrogations were accompanied by beating, mistreatment and torture, failure to provide water or food.

154. In some cases, bodies of kidnapped persons were found showing signs of severe torture. This situation became more worrisome in April and May 1994, when numerous unidentified and severely mutilated corpses were regularly found in the streets of Port-au-Prince.

Massacre perpetrated in Raboteau

155. Several localities in the Northern Département were victims of systematic military repression following the coup d'état of 1991. The well-known support of the Département for President Aristide and the recognized presence of militants among the people exacerbated the soldiers' hate, and they carried out raids and acts of violence throughout this period. To sum up those acts, there were cases of murder, arbitrary arrest, torture, fire that destroyed hundreds of homes, and destruction of crops and livestock.

156. Raboteau is a poor seaside slum to the north-west of the coastal town of Gonaïves. The repression against its inhabitants, who are Aristide supporters for the most part, was systematic. Political militants and members of organizations based in this slum took the habit of sleeping next to their boats to escape frequent raids by the army and FRAPH.

157. On April 18, 1994, two soldiers, accompanied by a local FRAPH leader, went to Raboteau in search of Amio Metayer, nicknamed "Cubain," whom the army suspected of being the leader of an armed group calling for the return of Aristide. The search ended with the sacking of various houses, blows and beatings inflicted on inhabitants who tried to flee, and numerous arrests.

158. Four days later, a larger number of soldiers, accompanied by FRAPH members, took control of Raboteau from early in the morning. They attacked and looted about a dozen houses

and beat the inhabitants before summarily executing, on the coast or in boats, many persons who were trying to flee by sea.

159. International observers who went to the site on April 27-28, 1994 could not establish with certainty the number of victims, since many of them had been buried hurriedly the day after the massacre by prisoners under army orders.

160. The OAS/UN International Civilian Mission indicated that at least 12 persons had been murdered by shots fired by soldiers wearing tactical squad uniforms. Other reliable sources indicated that at least 28 persons had been murdered.

161. Numerous testimonies indicated that those responsible for this massacre were soldiers from the Toussaint Louverture barracks, acting under the orders of Roland Depton, Delegate of the Artibonite Département, and Jean Tatoune, a former political militant and a collaborator with the soldiers.

162. During 1994, the government's efforts to silence all opponents resulted in a large number of extra-judicial executions. Although the Inter-American Commission on Human Rights, in cooperation with the international observer missions and the human rights agencies on-site in Haiti, has compiled some figures, the exact number of these extrajudicial executions is impossible to determine.

163. The Commission is submitting a partial list of the extrajudicial executions that took place from January to June 1994. The names on the list were compiled by human rights groups working in Haiti. The list is not exhaustive, since it contains only the names of persons whose bodies could be identified and about which the human rights groups were informed.

January and February

In Cité Soleil, Port-au-Prince

- January 15, a woman named Jeanne, 35 years old
- January 28, 1994, journalist Michelet Dominique, 30 years old
A man called Tizo, about 30 years old
- February 2, 1994, Chevalier Pascal, 38 years old, an immigration employee
- February 3, 1994, Charles Alexandre, 24 years old, a student
A young man named Miguel, 25 years old
- February 10, 1994, Thermidor Josué, 28 years old
Ernst Théodore, 26 years old
- February 12, 1994, Ti-Blanc, 34 years old
- February 20, 1994, Césavoire Jean Vernet

In the interior of the country

In Solino

- January 10, 1994, Téya Thérèse, a member of MOJEP
- January 10, 1994, Elukner Elie, a leader of the Papaye Peasant Movement

In Belair

- January 11, 1994, Rozius François

In Martissant

- January 22, 1994, Robert Jean

In Laboule

- January 31, 1994, Delance Augustin, an engineer

In Morne Cabrit

- February 22, 1994, Beauvais Léonard Félix

March and April

In Cité Soleil, Port-au-Prince

- March 6, 1994, Valmel Cassamajor
- March 10, 1994, a young man, 26 years old, named Lambert
- March 11, 1994, M. Pierre
- March 17, 1994, Dietner Auguste, 34 years old
- March 25, 1994, a man called Joreks, 27 years old
- April 4, 1994, Kesner Bruno, 19 years old
- April 7, 1994, Mrs. Pétion, 46 years old
- April 14, 1994, Marie Louis
- April 16, 1994, M. Avril

In Port-au-Prince

- March 5, 1994, Massadieu Massillia, a primary school student
- March 15, 1994, Lukner Auguste, 40 years old
- March 20, 1994, Lamante Paul, 28 years old
- March 21, 1994, Dargil Théodore
- April 9, 1994, Fils Aimé Jasmin, 32 years old
- April 19, 1994, Lafond Harold

In St. Michel de l'Attalaye

- April 10, 1994, Myrlande Francius, 18 years old

In Séguin

- April 23, 1994, Pierre Philippe

May and June 1994

In Port-au-Prince

- June 23, 1994, Florestal Sheila and Florius
- July 1, 1994, Paul Pierre, 40 years old

In Artibonite
- June 9, 1994, Fridner Jean

In Martissant
- July 31, 1994, a man named Alfred, 35 years old

B. Right to personal liberty and humane treatment

164. During the period between January and September 1994, the Haitian people continued to give testimony of numerous human rights violations, particularly with reference to personal liberty and humane treatment as respectively reflected in articles 7 and 5 of the American Convention. As outlined in the previous special report on the situation of human rights in Haiti, following the overthrow of the democratic government of President Aristide, cases of arbitrary arrest, disappearance, mistreatment, and torture became a part of daily life.

165. The violations of these rights were closely linked to the systematic oppression carried out by the armed forces, since in all cases of detention, the victims were beaten and subjected to other physical abuses. Many of the detentions took place outside the hour stipulated by the Haitian Constitution for making arrests. Such detentions were carried out without any court authorization whatever, and in no case could persons detained appear before a judge.

166. Soldiers systematically applied themselves to the task of repressing any support that the democratic government may have had, by persecuting its supporters and destroying any attempt at popular organization, regardless of whether such organization had political objectives. The loss of liberty was generally accompanied by beating, torture, death threat, and other inhumane and degrading treatment.

167. On other occasions, victims had not been deprived of their liberty, but as part of the policy maintained by the regime to terrorize people, they were sought out in their own homes, or sometimes intercepted in the street, and savagely beaten.

168. A frequent practice was to abduct a close family member of the person they were looking for, when the latter was not found at home. In many cases reported to the Commission, it was hard to obtain news of abducted family members and they were considered missing.

169. Also, arbitrary arrests were often an additional source of enrichment for soldiers or policemen, who created a sort of bargaining process in which family members of victims were obliged to pay large amounts of money to secure the freeing of detainees or at least to put an end to mistreatment.

170. During the two visits carried out by the Commission in 1994, it received a large number of complaints against violations of the right to humane treatment and personal liberty. Below, a few cases are presented by way of illustration:

Gala Jean Rhoud

171. On June 20, 1993, in Léogane, Jean Rhoud Gala was arrested by the area's police chief and detained for two days. He was tortured by the police chief and his aides during the interrogation they carried out. Gala Jean Rhoud was freed after his family paid his captors 3,000 gourdes.

Jean Wichenieu

172. He was illegally arrested by soldiers on September 14, 1993, spent seven days in prison, and had to pay a sum of 700 gourdes to be freed on September 21, 1993. Two days later, as word reached him that he would again be arrested, he was forced to flee into clandestinity with his wife and children in Borgne. On October 28 of the same year, the section chief in Au Borgne, accompanied by soldiers, had 300 houses burnt down. Numerous people were beaten up and many animals were massacred.

Sony Lefort

173. A person close to President Aristide, he was arrested on September 30, 1993 and taken to Fort Dimanche where he remained for 15 days, during which he was severely beaten. They placed a plastic bag on his head trying to suffocate him.

On April 28, 1994, he was again detained on the Bon Repos road (Cul-de-sac, Port-au-Prince) by soldiers from the area and taken to the military post. The next day, he was transferred to the post at Croix-des-Bouquets. Sony Lefort had marks on his body that proved he had been severely beaten, and this was confirmed by other sources. His wife Bertha Romélus, accompanied by other persons, went to the Croix-des-Bouquets post to take him food and clothing. They found the detainee sitting in the guard room with his face inflamed. When he was asked what had happened, he replied that Captain Mondésir had given the order to arrest him, but he still did not know for what reason. The victim's wife then went to one of the soldiers in the guard room to ask him if she could give food and clothes to the detainee. Following a lengthy discussion with the captain, he finally agreed that the detainee could be given food and clothes, but he said the detainee had to remain in detention, since he had not finished with him. Since then, the family has not been allowed to communicate with Sony Lefort.

Alerte Bélande

174. An Aristide supporter along with her husband, she was abducted from her home on October 16, 1993 by armed civilian members of FRAPH when the latter did not find her husband there, as he had managed to escape through a window. Mrs. Bélande was taken to Titanyen, a place known as a common grave for those executed extrajudicially, where she was brutally tortured, mutilated, and left for dead from machete chops to the face, neck, and extremities. In spite of the serious wounds received, Mrs. Bélande managed to drag herself to the street, ask for help, and save her life, thanks to the medical treatment she received.

Saurel Avril

175. At the beginning of May 1994, toward 10:00 p.m., the house of this committee member in the Grand-Goave shanty town was stoned for a half-hour. On May 4, three men--a soldier in olive green uniform and two men in civilian dress--came to his house to arrest him. Saurel was taken to the Grand-Goave barracks where, without being questioned, he received about 100 blows with a baton on the buttocks. They then applied the "kalot marasa," which is a method whereby they apply blows to both sides of the victim's head, often causing serious lesions on the ears, including perforation of the eardrum, infections, and loss of hearing. After being accused of setting fire to the Grand-Goave barracks on September 30, 1991, he was taken to prison.

The following day, a sergeant named Daniel went to fetch him in the cell and took him to the guard room, where he gave him more than 300 blows with a baton. The sergeant showed him a piece of paper on which were written the names of all the people's organizations in Grand-Goave and ordered him to tell him the addresses of the members of those organizations, following which he was taken back to prison. During the night of May 5-6, toward 3:00 a.m., the commander of the barracks decided to free him, warning him that he should leave town, since if he did not, he would not hesitate to kill him at the next opportunity.

Jean Kroutchev Célestin

176. A member of the Coordination of Shanty Town Committees (COCOQ), he was abducted on May 14, 1994 toward 8:00 p.m. by four armed civilians in a Rocky jeep, after they had sprayed paralyzing gas in his eyes. Once he was in the jeep, the men interrogated him regarding the names of members of the Platform of Carrefour Feuilles, to which Mr. Célestin replied that he knew nothing. On arriving at their destination, they blindfolded him and tied him up in the "djak" position with a cord to lower him into an underground cell. The following day, after the cord and the blindfold were removed, he was taken to a room where he was interrogated regarding the activities of his organization and on the financing of "Lavalas" organizations. In the process, Mr. Célestin was savagely beaten in the head and back.

Mr. Célestin spent seven days at that place and was beaten daily during interrogations. They subsequently offered him to join their group. When he refused, he was again tied up and locked in the vehicle. Mr. Célestin managed to jump out of the automobile and escape from the shots fired by his tormentors.

Events at Borgne

177. Localities in the region of Borgne were subjected to numerous military raids since 1991. The repression never ceased to increase during the period, leaving dozens of victims and hundreds of persons homeless.

178. The many raids that took place between 1991 and 1994 resulted in the destruction of more than 250 houses by fire, the slaughter of livestock, and crops destroyed.

179. Many peasants were mistreated and harassed. Concordant testimonies from reliable sources confirm that there were summary executions of persons sought out by the Armed Forces of the

de facto regime, and rapes of women who refused to give information on where the persons sought were hiding.

180. Since April 7, 1994, the Haitian Armed Forces have maintained a state of siege in this area, prohibiting access to it by the Civilian Mission and journalists.

181. Alarming testimonies from varied sources, as well as the visit that the Civilian Mission was finally able to make, April 27-30, made it possible to establish the nature of the crimes committed.

182. On April 8, 1994, a large-scale military operation began in the area of Petit-Bourg-du-Borgne, Port-Margot, and Ravine-Trompette, with movements of armed groups from Cap Haïtien and Limbé and a convoy of ambulances going toward the area. On April 9, 1994, a commando of about 300 heavily armed men, including the Captain of the Limbé District, various section chiefs, attachés, and members of the FRAPH in Borgne, attacked Bassin Caïman in the Boucau Michel section of Borgne and neighboring localities.

183. The attack started toward 10:00 a.m., with the burning of six houses in Petite Rivière and Tripot. On the road from Collette and Bassin Caïman, they burned down 35 houses belonging to 17 families, destroyed about 50 gardens, and killed or stole more than 150 head of livestock.

184. During these operations, many women and children were raped. More than 200 peasants had to pay extortion of 50 to 2,000 gourdes. Various illegal and arbitrary arrests took place, including those of the Mayor of Borgne, Bélizaire Fils Aimé, who was held incommunicado.

C. Rights to freedom of expression and of assembly

185. The rights to freedom of expression and of assembly are enshrined in Articles 13 and 15, respectively, of the American Convention on Human Rights, and are intimately connected under the plan of repression pursued by the de facto regime in Haiti, which undertook the task of persecuting any form of political organization and popular grassroots groups and of keeping a grip of steel on the communications media.

186. The soldiers who assumed power following the overthrow of the democratic regime exercised extraordinary censorship on the communications media, along with the cancellation of any possibility of holding meetings of any type.

187. Many attacks on the right of expression and the right of peaceful assembly were brought to the attention of the IACHR and the OAS/UN International Civilian Mission. Members of popular organizations were the first victims of such violations. The repression was so systematic and reached such a level of brutality that Aristide's supporters and all those who desired a return of the democratic order often seemed to give up exercising their rights for fear of reprisals.

188. The repression of the freedom of the press is particularly illustrative: several Haitian journalists were murdered during and following the coup. Others are missing, presumably dead. Six radio stations were permanently silenced, and at least 30 journalists fled the country in August 1994. In addition, foreign journalists were routinely expelled from the country for the smallest gesture that the soldiers of the de facto government deemed inappropriate.

189. In a decree issued on August 2, 1994, the illegal de facto government warned the communications media that the military authorities would take measures against the transmission of "alarmist and tendentious news," especially information from embassies (most particularly that of the United States), and seized the opportunity to reiterate the warning formulated in May that foreign journalists would be deported if they were found within a radius of three kilometers from airports, military barracks, border posts, police stations, and other strategic sites.

190. A paramilitary group called the Haitian Resistance League, closely linked to the Haitian security forces, warned owners of communications media about the transmission of statements by antimilitary groups. Haitian television crews and interpreters working under contract with foreign journalists were warned by the government that they could be accused of working with the enemy.

191. The Commission considers that the control the de facto military government tried to impose on the people resulted in a severe wave of oppression. The main victims of the oppression were members of people' organizations endeavoring to exercise their fundamental rights; journalists and the communications media in general. Merely doing their normal work placed journalists in imminent danger of reprisals in the form of detentions, beatings, and even death. The mere suspicion of belonging to or being affiliated with an organization regarded as supporting President Aristide was also sufficient reason to be detained.

192. Below are presented a few of the cases received by the Commission during its on-site visits in May and October 1994 on the right of expression and assembly:

Adner D'Haiti

193. On September 5, 1993, he signed a press release published by the Fort St. Claû Platform, calling on General Cédras and members of the Senate to respect the Governors Island Agreement, which was broadcast by various radio stations in Haiti.

Armed civilians immediately started to look for him at various places in Port-au-Prince. Finally, on September 7, he was held by three attachés as he returned home. He remained detained in prison a whole day, during which he was severely beaten. On February 11, 1994, following statements on the radio, Adner D'Haiti was again arrested and beaten by attachés.

Thibault Jm. Mozart

194. President Aristide's press officer prior to his overthrow and currently a member of the Belle-Anse Foundation, he had been appointed by the Foundation to collect information on human rights violations in the Belle-Anse District. On May 13, 1994, he was arrested by a

soldier named Abessis Noel and taken to the barracks, he was received by the commander of the Military District of Fliotte, Oreste Séripahen, who questioned him on the support that Aristide was receiving. In view of Jm. Mozart Thibault's refusal to talk, the commander ordered that he be beaten on the ears. As a result of the mistreatment to which he was subjected, Mr. Thibault has hearing problems and difficulty controlling the modulation of his voice.

Ernst Ocean

195. A 27-year-old journalist, who was reported missing on August 4, 1994 by Radio Tropic FM, the station where he was working. His family and colleagues at work saw him for the last time on July 31. His last radio program was broadcast during a ceremony organized by the military authorities. Ocean had been detained by soldiers in 1993, accused of distributing leaflets supporting deposed President Aristide.

Marcelin Clotaire

196. A delegate of the Savane Peasant Movement for Social Development (MPSDS), on July 15, 1993 he was at a meeting of about 50 persons in the Pandiason shanty town in Hinche, which was interrupted by a band of armed civilians who arrested half of the participants. On August 20, while participating in another meeting, he was again arrested by armed civilians.

On September 15, 1993, during a meeting of his association at which plans were being made for the return of Aristide, the local section chief came to interrupt the meeting, and various participants were beaten. On December 27, 1993, during reprisals carried out by FRAPH in Cité Soleil to avenge the death of Issa Paul, Marcelin Clotaire was arrested and taken to the Anti-Gang Brigade, where he was severely beaten.

Franze Lamisère and Gérald Duverger

197. The persecution of members of an ecological organization, the National Union of Progressists for Reforestation and the Environment (UNPREN), of which Mrs. Lamisère is a member, began on July 25, 1993 with the violent interruption of one of its meetings by order of section chief Vancol Adam.

On October 26, 1993, when Mrs. Lamisère was at another meeting, it was interrupted by armed civilians who pursued them to their own homes, attacked them and their family members, and ransacked their houses. Delegate Gérald Duverger, who was also at the meeting, was severely beaten and taken to a location where he was left for dead. As they were threatened with death, the organization's entire leadership was forced to remain in "marronage."

Mr. Destaul and Natacha Destaul

198. A member of the Young Peasants' Movement (OMJPC) in Côtes de Fer, Mr. Destaul was presiding over a meeting of the OMJPC on October 30, 1993, when suddenly various soldiers and armed civilians erupted in the church where the meeting was being held and at which his wife was also present. Mr. Destaul was beaten and taken to the Côtes de Fer barracks, where he

was held for three days before being freed on November 1, 1993. In prison, he was informed that he had no right to hold a meeting on that day. Although Mr. Destaul obtained treatment for his wounds once he was freed, he still has deep scars from the mistreatment and blows he suffered.

On November 2, he was accused by a military commander of burning down his house, an incident in which the soldier lost a son. In reprisal, various soldiers and armed civilians then burned down the offices of the OMJPC and the home of Mr. and Mrs. Destaul. After that Mr. Destaul was in clandestinity, or "marronage."

In February 1994, seven soldiers and armed civilians went to Mrs. Destaul's home asking to see her husband. As he was not there and despite the fact that she was seven months' pregnant, she was beaten and lost consciousness.

Elisias Arnaud

199. As a member of the Federation of Young Patriots of Jean Denis (FJPJ), of KODET, and of KONAKOM, he was subjected to constant persecution by soldiers.

Arnaud Elisias was always involved in the defense of peasants and in the organization of popular demonstrations. He also devoted himself to distributing pamphlets in public places in favor of Aristide. He constantly defended peasants against abuses by the local authorities and was therefore not allowed to live in the region of Jean Denis, Petite Rivière, in Artibonite, Section I of Bac Cousin.

Arnaud endured the murder of his son, and both his wife and his sister were raped on two occasions. Since the coup d'état of September 1991, he has had to remain in clandestinity. The last act he has had to endure, as reported to the Commission, was the burning of his house and the murder of his brother, Olden Elisias, at the hands of soldiers as he tried to prevent them from getting into the house.

D. Right to private property

200. The repression carried out by the de facto regime was not limited to physical persecution of citizens and brutal attacks against the personal integrity of those who opposed the regime. It also involved the destruction of whatever few belongings they owned.

201. The right to property is set forth in article 21.2 of the American Convention on Human Rights, which states: "No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law."

202. The numerous cases recorded by the Commission show that frequently the military or armed civilian oppressive forces, acting under army orders, destroyed the homes of persons sought (usually supporters of President Aristide), as part of the terrorist policy. These actions produced heartrending situations in which the father had to abandon his family and go into hiding, and the family was left completely abandoned, without housing to shelter them.

203. The Commission observed that it was the practice of military and paramilitary forces to sack their victims' homes before burning them to the ground. Along with these abuses of property rights, the commission learned of cases in which the "section chiefs" seized the land and crops of victims when they had to go into hiding "marronage" (clandestinity).

204. In that regard, the officials of the illegal de facto government and the armed civilians of FRAPH frequently used the destruction of the homes of opponents of the regime as a repressive measure.

205. The following are some of the cases reported to the Commission.

Gabriel Edrasse

206. On June 10, 1992, armed civilians attacked him while he was at a sports center with other persons, accusing him of being a Lavalas member. After beating him savagely and believing him to be dead, his attackers tried to hide his body.

On October 30, 1993 he was arbitrarily arrested and had to spend the first three days of his detention without food. He was accused of being a member of the AJPS (Association of Young Underground Progressists), a group that works in favor of Aristide. His house was burned down, and he had to abandon his wife and children, hiding constantly, seeking refuge in churches until he was again arrested on March 23, 1994 for distributing photographs of Aristide.

Leroy Charles Vigne

207. Following the overthrow of President Aristide, numerous members of the Papaye Peasant Movement (MPP) were arrested, beaten, and murdered. However, MPP member Mr. Leroy Charles Vigne managed to escape during the night of July 1, 1993 from soldiers who were trying to arrest him. When they could not find him, they looted and destroyed his house. Since then, Mrs. Leroy Charles Vigne and her five children had no home and feared for their lives in view of possible reprisals by the soldiers.

Ryfelle D'Haïti

208. On December 27, 1993, the corpse of FRAPH treasurer Issa Paul was found in Cité Soleil. FRAPH members then accused Ryfelle D'Haïti of being responsible for the murder, because he was a member of a popular organization that had published a communiqué criticizing the army. He was arrested and beaten, as was his wife. Thanks to a sergeant's intervention, they were freed. However, all his belongings were burned. On the same occasion, more than 200 homes were burned down in the Cité Soleil slum during acts of reprisal carried out by FRAPH members.

5. Refugees (boat people)

209. Since September 29, 1991 when the Armed Forces overthrew President Jean-Bertrand Aristide, the Commission has been observing the human rights situation of Haitian refugees. In

each of its special reports on Haiti covering the periods of 1992 and 1993, the Commission devoted a special chapter to the subject.

210. The repression against the Haitian people started immediately after the coup d'état and took the form of murders, abductions, tortures, and politically motivated arrests. The systematic human rights violations perpetrated by soldiers caused a massive exodus of Haitians, primarily from the sectors that backed President Aristide. Thousands of Haitians fled the country, escaping from the severe repression across the border with the Dominican Republic or aboard small, unsafe boats headed for the United States. Other boats headed for The Bahamas, Belize, Cuba, Honduras, Jamaica, Trinidad and Tobago, and Venezuela, where their passengers sought asylum. Many of these boats were intercepted by the United States Coast Guard Service, while an incalculable number of them sank, and their passengers drowned.

211. In its last report, the Commission pointed out that over 41,000 Haitians had been intercepted, 30,000 of whom were returned to Haiti. The practice of interdiction and forced repatriation by the United States has been the target of constant criticism by nongovernmental organizations for the defense of human rights. The latter have argued that this practice violates international law, specifically the provisions of Article 1(A) of the United Nations Protocol relating to the Situation of Refugees, to which the United States is a party and in which a refugee is defined as:

"any person who, for reasons of race, religion, nationality, adherence to a given social group, or political opinion, is outside of the country of his nationality and cannot obtain the protection of that country or ... is unwilling to do so ..."

and finally, Article 33 of the above-mentioned Convention of 1951, which states:

"No Contracting State may in any manner expel or return ("refouler") a refugee to a territory within whose borders his life or freedom may be at risk by virtue of his race, religion, nationality, adherence to a given social group, or political opinion."

212. Human rights groups that defend refugees' rights have argued that the practice applied also violates United States law, which prohibits "refoulement" or the forceful return of persons genuinely fleeing the persecution to which they are subjected in their country of origin.

213. On June 21, 1993, the United States Supreme Court ruled that the President's power to repatriate aliens without papers who had been intercepted on the high seas was not subject to any restriction and that the right to be not subjected to "refoulement" applied only to aliens who were physically present in the host country. In this respect, some organizations concerned on human rights, alleged that those persons who were intercepted in international waters were bereft of any juridical remedy, and unless the legislation in force were amended by the Congress, the Haitians would continue to be repatriated without being granted a hearing to present arguments in their quest for asylum.

214. In early-February 1994, President Jean-Bertrand Aristide announced that he would denounce the agreement that permitted the United States to repatriate, without process, Haitian

refugees intercepted on the high seas, citing the clause that provides for denouncing of the agreement between the two countries, with six months' advance notice. President Aristide's communiqué was issued after four corpses of Haitian refugees, including two children, were found on the beaches of Florida.

215. The criticism by certain domestic sectors in the United States against President William Clinton's policy of intercepting and returning "boat people" to Haiti intensified in early-1994. In March, a group of congressmen, particularly the Black Caucus members, artistes, and leaders of the Black movement in the United States, launched a campaign to obtain a change in the United States Government's policy. The group described President Clinton's policy as racist and asked for the removal of Lawrence Pezzullo, Special Advisor on the Haitian crisis at the State Department.

216. On April 11, the Executive Director of the TransAfrica group, Randall Robinson, began a hunger strike in opposition to the policy of summary repatriation of refugees. Also in April, President Aristide maintained his criticism, accusing the United States Government of implementing a racist policy by returning Haitian intercepted at sea to their country of origin without giving them the option of requesting political asylum.

217. During its visit to Haiti in May 1994, the Inter-American Commission on Human Rights received complaints from a number of people who were victims of human rights violations, including extrajudicial executions after being returned to Haiti from Guantanamo. Amnesty International recorded some cases, including the following:

218. Oman Desanges, founder and chairman of the neighborhood committee, the Association of Young Progressives of Martissant (Association des Jeunes Progressistes de Martissant). A few days after the September 1991 coup, soldiers tried to detain him, and in February 1992, he fled in a boat with his family. The U.S. Coast Guard intercepted and took a number of Haitians to Guantanamo, where some were selected to enter the United States for processing their request for asylum.

In spite of this, and apparently due to a mistake, Oman Desanges and several members of his family were returned to Haiti in May 1992. On January 26, 1994, the body of Oman Desanges was found near the Port-au-Prince international airport. His arms were tied, a rope was around his neck, and a red scarf bearing the words "President of the Red Army" and "Indigent Lavallassien" was wrapped around his arm. His eyes had been torn out, an ear had been cut off, and his stomach was split open. Two days before, a group of soldiers and attachés had taken him into custody from his home in Martissant, Port-au-Prince. Apparently, while he was detained, they had blinded, beaten and knifed him, and then had shot him to death.

219. At end-April, there was a change in President Clinton's policy, when 411 refugees intercepted four miles from the coast of Florida were admitted to United States territory. However, it was not until May 8 that President Clinton announced that the United States would not systematically return all refugees intercepted at sea, and a system was established for interviews to be conducted aboard ships of the United States fleet to determine if the Haitians qualified, as required by international law, for political refugee status. Interviews would be

conducted by representatives of the United States Immigration and Naturalization Service, assisted and supervised by representatives of the United Nations High Commissioner for Refugees. Persons who did not qualify would be returned to Haiti. At the same time, the United States Government continued to ask Haitians to make their requests for political asylum in Haiti.

220. As part of the United States Government's change of policy, Democrat and former congressman William Gray was appointed Special Advisor and Secretary of State for Haitian Affairs, replacing Lawrence Pezzullo.

221. On the other hand, the United States Government began a campaign to ask other countries to accept Haitian refugees or allow interviews to be conducted on their territory. Members of the "Friends of Haiti" group, composed of Argentina, Canada, United States, France, and Venezuela, and countries of the Caribbean and Central America were solicited in this respect. The Turks and Caicos Islands announced they would receive some Haitians. The United States Government indicated it would pay the expenses that this would incur for governments which agreed to cooperate.

222. The new system of processing refugees was initiated on June 16, 1994 aboard the United States ship, "Comfort," in the bay of Kingston, Jamaica. The system adopted increased the possibility of acceptance of Haitian refugees much more than anticipated. Originally, the United States administration thought that approximately 5 percent of the persons intercepted would be sent to the United States. However, the real index was about 30 percent. Similarly, the procedure on board the United States ship, "Comfort," was much longer than foreseen, and intercepted Haitians who did not qualify to leave for the United States were not immediately returned to Haiti. This created the impression in Haiti that the number of persons who succeeded in obtaining political asylum was greater than it really was.

223. In a short space of time, the number of intercepted persons spiralled upward. On June 28, the United States Coast Guard intercepted 1,486 Haitians, and on the same day President Clinton announced that the Guantánamo military base would once again be used to process refugees. On July 4, 3,247 refugees were intercepted, and the number of Haitians intercepted in only 11 days thus rose to about 10,000. According to information from the State Department, between mid-June and July, 20,190 Haitians were intercepted.

224. A large number of Haitians went to the Dominican Republic, and in May it was estimated that half a million Haitians were residing there illegally after fleeing the difficult political and economic situation in Haiti. The tension created by the massive exodus led certain sectors to propose the creation of refugee camps for Haitians.

225. The military authorities in Haiti tried to control the departure of refugees, apparently in an effort to reduce the threat of an invasion. In May, illegal de facto President Emile Jonaissant announced that anyone trying to leave by boat would be imprisoned. Subsequently, numerous incidents were recorded of attacks, arrests, and torture by soldiers against persons who were trying to flee the country. During the night of May 16, soldiers surprised about 200 people who were trying to leave from Trou Chou Chou, Petit Goave; 50 of them were taken to prison. On

May 22, a group of 30 persons who were preparing to board a boat were attacked by uniformed men in the Ti Guinée slum, Petit Goave.

226. In view of the enormous flow of refugees, on July 5, the United States Government announced that it would no longer consider persons intercepted at sea as candidates for political asylum in that country. Only persons who managed to obtain the status of political refugee in Haiti would be accepted on United States territory. Refugees intercepted at sea would be accommodated at Guantánamo military base or at other refugee camps, where they would stay until other countries accepted to receive them or until a final solution was found to the crisis.

227. Since the Panamanian Government changed its mind about receiving 10,000 refugees who were to be installed on a deserted island (San José), the United States Government made great efforts to find countries in the region that would accept to offer "safe havens" temporarily to Haitians. However, 13 Caribbean Heads of State meeting in Barbados declared their opposition to the United States proposal to set up camps in the region to receive refugees.

228. The massive exodus of Haitians was the cause of a large number of deaths. On June 30, about 30 persons died by drowning when shots were fired from a police boat on a boatload of refugees, causing panic on board. On July 4, about 150 Haitians died when a boat carrying 320 persons sank near the coast of Saint Marc.

229. On July 20, President Clinton's administration announced that the number of boat people had declined dramatically. Of the 16,000 refugees who had been accommodated at Guantánamo military base, 2,000 preferred to return to Haiti.

230. A problem which arose after the imposition of the total embargo and the suspension of flights to Haiti was the impossibility of leaving the country for those persons who had submitted to the process of selection in Haiti to obtain asylum in the United States. On August 18, the spokesperson for the American Embassy in Haiti declared that 894 persons who had completed the required procedures could not leave the country. Up to end-August, the United States Government managed to obtain permission from the de facto authorities for 91 persons to leave Haiti in a bus that took them to the Dominican Republic. Subsequently, the de facto authorities accepted the departure of two buses per week.

231. The situation of the refugees accommodated at Guantánamo was becoming increasingly tense. On August 13, hundreds of refugees tried to flee following four hours of protests. The demonstration was called to demand that political asylum in the United States be granted or that the United States invade Haiti to end the crisis. The Haitians also demanded better living conditions in refugee camps.

232. Of the 16,000 Haitians accommodated at these installations, more than 750 participated in the disturbances. About 120 managed to scale the fence around the United States base and plunged into the bay, apparently hoping to swim to another place on the island of Cuba. During the demonstration, 65 persons were wounded, including 20 United States soldiers. After the incident, about 329 refugees involved in it were isolated in another location at the bay.

233. The future of the Haitian refugees became more uncertain since, with the decline in the number of intercepted persons, the problem became less urgent for the United States authorities, and the idea of establishing refugee camps in other countries came to be considered as too expensive and not very practical. In early-August, the massive exodus of Cuban refugees toward Florida led the United States Government also to accommodate at the Guantánamo military base all the Cubans who were intercepted at sea.

234. At end-August, the search for "safe havens" for the Haitian refugees was linked to the search for havens for the Cubans also. On August 24, the United States Government announced that Suriname, Saint Lucia, and Dominica had agreed to receive Haitian refugees. Honduras had previously accepted a few Haitians.

235. Following the occupation of Haiti by the Multinational Force, the Haitian refugees accommodated at Guantánamo began to return to Haiti. Within a few weeks, about 3,000 Haitians were repatriated. This time, the refugees returned voluntarily; most of them were tired of living conditions at Guantánamo. However, some stated that they had agreed to return after being informed that everyone would be repatriated.

236. Among the refugees who returned, 1,000 were recruited for the new Haitian police unit called the "Public Security Corps." Recruits received three weeks of training at the Guantánamo base itself. In mid-October, the United States authorities indicated that about 10,332 refugees remained at Guantánamo and that by end-November, all would have returned to Haiti.

237. In early January 1995, Haitian refugees still in the Guantanamo refugee camp began to be repatriated against their will.

238. The international community's reaction to the problem of the massive flow of refugees in the wake of the military coup in Haiti was characterized by lack of coordination. In general, throughout most of the period during which the crisis lasted the countries affected by the exodus were obligated to struggle with the problem individually according to their political and economic capabilities. At no time, except toward the end, when the United States was compelled to seek the support of other countries to take in refugees intercepted at sea, were any attempts made to coordinate the policy toward the Haitians in order to lighten the burden of the countries most affected by the problem. Consequently, countries such as The Bahamas had their public assistance services overwhelmed by the massive influx of refugees. This situation caused serious human rights problems, with a large number of persons being interned in refugee camps lacking the minimum infrastructure to properly house them.

239. The Commission would like to observe that the member countries of the Organization of American States have an obligation, whenever a major crisis such as the present one occurs in the hemisphere to confront the resulting problems jointly. The refugee question gave rise to grave human rights problems that demanded positive action from all States subject to the obligations enshrined in the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights.

CHAPTER V: THE RETURN OF THE DEMOCRATIC REGIME TO HAITI

1. Reinstallation of the Democratic Regime

240. On October 15, President Jean-Bertrand Aristide returned to Haiti and resumed his administration after a three-year exile. Upon his arrival at the National Palace, he gave a speech to a crowd of cheering well wishers in which he thanked the foreign forces for their assistance, and asked that an end be put to violence, saying: "Vengeance, no; Violence, no; Reconciliation, yes."

241. On that same date, the United Nations Security Council confirmed resolution 944/94 of September 29, lifting the economic embargo and other coercive measures imposed by the UN. The OAS likewise lifted the sanctions it had imposed since October 11.

242. A few days after his reinstallation, President Aristide took important steps to rebuild his country: The Haitian Senate approved a draft law to dismantle the paramilitary groups, banning them and any armed forces not provided for in the Constitution.

243. On October 24, President Aristide appointed as Prime Minister Mr. Smarck Michel, a businessman and close supporter, who was minister of trade and industry in the Aristide administration in 1991. In his general policy statement to the Haitian Parliament, Mr. Michel said that the three principles of the government would be "democracy, justice and tolerance."

244. As part of his political program, President Aristide met with leaders of all political parties in the country to discuss the schedule for the legislative elections in December. Although initially President Aristide had favored the establishment of a Provisional Electoral Council, most of the leaders at the meeting supported a Permanent Electoral Council. However, establishing a Permanent Council would require postponing the elections until the laws required by the Constitution had been enacted. In a compromise effort, it was decided to designate a Provisional Electoral Council to organize the legislative elections in 1995.

245. Accordingly, the Provisional Electoral Council was established on December 20, with nine members, three selected by the President, three by the Supreme Court (Tribunal de Cassation) and three by the Parliament.

246. In late December, the OAS Secretary General, Dr. César Gaviria, submitted to the Haitian Government an OAS proposal to provide immediate support to the government, including immediate as well as short and mid-term cooperation measures to provide support in the following areas: governance, human rights, elections; and institutional building, and strengthening of democracy.

2. The Human Rights Situation Under the Regime of President Aristide

247. Once President Jean-Bertrand Aristide had returned, a process of fundamental changes began in Haiti, especially in relation to the human rights situation. Nine days after the democratic government had been reinstated, the Commission carried out an observation visit to Haiti and was able to note an especially significant change, contrasting with the situation observed on the previous visit in May 1994. The departure of the dictatorial regime put an end to the climate of terror and violations that existed in Haiti. In Port-au-Prince and in some of the major urban areas, people now enjoy the freedom to express their support for the constitutional regime. The freedoms of expression, of the press, and of association have been restored. The Commission also observed a resumption of political activity in many areas of the country.

248. Despite the significant changes seen during the Commission's visit, on October 24-27, it was clear that there remained serious problems inherited from the military dictatorship. One of the most difficult tasks of the transition to a civilian society with a constitutional culture is the disarmament of paramilitary groups. During the military dictatorship, paramilitary groups were armed; they were responsible for numerous violations of human rights. In the weeks prior to the arrival of the Multinational Force, the military dictatorship had publicly declared its intention to distribute arms to irregular forces. To date, the Multinational Force has confiscated what seems to be a relatively small quantity of arms, and there are reports of arms caches that have not yet been located.

249. According to information provided to the Commission, the Multinational Force destroyed the Haitian Army's heavy artillery that was used in the 1991 coup d'état. However, the arms and apparatus of the dictatorship remain critical factors in some areas of the country where the Multinational Force had not yet established its presence. During its last visit, October 1994, the Commission obtained evidence of the existence of a state of insecurity in the areas of Artibonite, Jacmel, Petit Goave, and Desdunes, to mention only a few examples. One of the signs of insecurity is "marronage," as well as the continued displacement of persons. In some Départements, section chiefs continue to function although they had been involved in human rights violations.

250. Persons who met with the Commission during the on-site visit, who represented a wide range of positions and opinions, agreed that the disarmament of paramilitary groups was an essential step and a prerequisite for the restoration of a civilian society based on the rule of law.

251. Two of the most serious problems in Haiti are the lack of a legitimate police force and the absence of an adequate and efficient judicial system. The Commission pointed out at the time that: "Public order relies on the presence of the Multinational Force (MNF). Although the moderation and civility demonstrated by the Haitian people thus far have been extraordinary, the MNF, on occasion, has found itself drawn into a police function for serious and urgent situations. There has also been an anomalous situation in which known Attaches and Macoutes have been apprehended by the MNF and turned over to the Haitian police, who have released them. As a result, the system has not yet been able to begin to deal with those who might have been implicated in international crimes and crimes against humanity".

252. During its stay in Haiti, the Commission listened with satisfaction to the plans for the creation of a Police Academy as a means of training professional cadres. However, it noted that there was immediate need for a police force and a judicial system operating independently and efficiently. It was therefore essential, apart from the undertakings to build permanent institutions such as the establishment of a neutral police force, to deploy a provisional force immediately. Such a force should have legitimacy and satisfy the needs of the people in regard to public order. The Commission also pointed out that the Haitian Government should apply the strictest criteria when selecting police officers, it being understood that in a constitutional system the police should come under the orders of the civilian authority.

253. By late December, the Interim Public Security Forces trained by the International Criminal Investigation Training Assistance Program (ICITAP), under a bilateral agreement between Haiti and the United States, selected approximately 3,000 men.

254. The personnel was selected from the FADH by a Haitian committee composed of four colonels and headed by the new Commander-in-Chief of the Armed Forces, General Bernardin Poisson. The classification process was questioned by some people's organizations, such as "Justice and Peace" (Justice et Paix) in Gonaives, which claim that known human rights violators have been accepted. On the other hand, there has been criticism that rejected military personnel have not been given the possibility to defend themselves.

255. President Aristide has placed the Public Security Forces under the command of a three-member commission, headed by Major Dany Toussaint, which is under the Ministry of Justice. The Interim Forces have been deployed in ten cities, in addition to Port-au-Prince, and have visited over 120 localities. However, they have not been deployed in some areas of the north and southwest. The Law on the creation of a Civil Police was adopted later on December 23, 1994.

256. Similarly, despite the fact that a start was being made to implement plans for restructuring the judicial branch, there was an urgent need to have training programs for establishing a provisional judicial system, in this way placing emphasis on human rights, the integrity of persons, and support for constitutional government and justice.

257. The Commission considers it necessary to know exactly what happened during the military dictatorship and, in particular, to relate in detail the human rights violations to which the Haitian people were subjected, so that Haiti can reconstruct its society and its government. The Inter-American Commission on Human Rights and the Inter-American Court on Human Rights have argued that in cases of human rights violations, the government has the obligation to investigate, establish liabilities, and publish its conclusions. The absence of juridical procedures to carry out this task not only represents a violation of the American Convention on Human Rights, but is also a serious obstacle to the healing of the society's wounds, through truth and reconciliation. There are many models, both national and international, for complying with this obligation, but the Commission does not suggest any particular one. The Commission reiterates, however, that the investigation of human rights violations is a responsibility that can never be given up.

258. The Commission hopes that the Haitian Government will take steps rapidly to establish, by law, a National Committee on Compensation, made up of eminent Haitian jurists, to receive

complaints from Haitians who were subjected to human rights violations. Complaints were received that some subjects involved or closely associated with the army illegally seized items of private property, whereas the right to property is also protected by the American Convention on Human Rights. It is necessary to hear the complaints as soon as possible and establish the compensation to which those acts give rise. Any new committee, like the judicial system that is being established, should use creole as its working language.

259. On November 22, 1994, the OAS/UN International Civilian Mission published a communiqué announcing that it had resumed its activities as of October 26 and pointing out that in less than one month, 800 persons had presented themselves to the Mission to provide their testimonies on human rights violations or to request medical or legal assistance. The Mission indicated that the information received made it clear that the human rights situation had improved considerably, and numerous persons displaced within the country who had been forced by the repression and the climate of insecurity to abandon their homes were gradually returning to them. The sectors that suffered from the coup d'état were appealing for lawsuits to be brought against the perpetrators of human rights violations.

260. The Civilian Mission also indicated that in spite of the presence of the Multinational Force, a certain level of political violence had prevailed until end-October 1994. Without having totally ceased, violent incidents had declined since then. The Mission also collected testimonies on acts of violence committed by partisans of the President of the Republic against members of the Haitian Armed Forces, FRAPH, and auxiliaries, particularly during the week following the President's return. Cases of arson, looting, and destruction of homes and shops were also reported to the Mission. The constitutional authorities reacted rapidly to these acts by denouncing them, taking the measures required by the circumstances, and recommending reconciliation.

261. The IACHR was informed about recent human rights violations, including the murder of four persons in Carrefour Rocher, Chenot, a municipal section of Marchand Dessalines, on October 9, 1994. Human rights groups pointed out that the "section chief" Paul Onondieu opened fire on pro-Aristide demonstrators, wounding several persons, who were then finished off with machetes. The Commission was likewise informed of the subsequent killing of an "attaché" in vengeance for the above incident.

262. Later, three civilians and two Haitian soldiers were killed in a confrontation on October 12 in Montagne Terrible, a municipal section of Saut d'Eau. It was reported that the two soldiers, who were from Saut d'Eau, Semelis Louisant and Jean-Colin Antenor, arrested several Aristide supporters when a hostile crowd confronted them. The soldiers were killed by the crowd after they opened fire and wounded two persons, known as Ti Bien and San Fanmi.

263. On October 15, some Haitian soldiers in Anse d'Hainault under the orders of Lieutenant Lom fired on pro-Aristide demonstrators, killing Brunache Klarenase, a 15-year-old. Likewise, Lieutenant Pierre Joseph Mesadiou, the army post commander in Cabaret, opened fire on a crowd of pro-Aristide demonstrators on October 15, killing Jean Smith, 22, and wounding a 15-year-old youth.

264. The Second Deputy Mayor of Mirebalais, Cadet Damzal, was killed during the night of November 4. His decapitated body was found the following day in a river on the outskirts of the town. To date, despite investigations by the Multinational Force, responsibility for this murder has not been determined. Cadet Damzal represented the FNCD, a pro-Aristide electoral coalition, and he recently had been helping victims of abuse to bring suit and obtain compensation.

265. Recent information shows that in Port-au-Prince, there is one murder almost daily. Unidentified groups are obtaining goods and money by extortion from local merchants, while other criminal groups erect roadblocks to stop vehicles and rob the passengers.

266. In the interior of the country, there are one or two victims of common violence daily. In some departments, continuous abuses by the section chiefs are reported, and there are bands of former "attachés" or FRAPH members, which are particularly active in the Artibonite region. Old land disputes are also the cause of violence.

267. Until the January 12, 1995 incident in which two members of the United States Special Forces were attacked at a roadblock in Gonaives, with one of them and one of aggressors killed, there have been virtually no incidents against international personnel since September 24, 1994, the date of the confrontation between the Multinational Force and the FADH in Cap Haitien.

268. The Report of United Nations Secretary General Boutros Ghali of January 17, 1995 points out that "the relative security now enjoyed by the Haitian people is very fragile," and regarding the acts of violence recorded in Haiti, he states the following:

"Although there is no evidence that these criminal acts are politically motivated, they are often committed by groups armed with high caliber weapons, including automatic weapons, which indicates a probable link with the old paramilitary networks. Whatever their motivation, these acts of violence affect security and might have a destabilizing effect if they are not controlled."

3. The Justicial System

269. One of the most serious problems inherited by the constitutional government of Haiti from the military dictatorship is the judiciary. The chronic incapacity and ineffectiveness of the administration of justice worsened during the three years of the illegal government of military leaders who overthrew President Jean-Bertrand Aristide in 1991. This period was characterized by systematic repression and domination of the members of the judiciary.

270. Among the priority objectives of the democratic government, supported by the international community, is reestablishment of social and public order; and in order to achieve genuine protection of the rights of citizens, the judiciary must be overhauled as soon as possible, to ensure that those guilty of criminal acts are brought to justice.

271. The Commission has continuously monitored the human rights situation in Haiti and has found that among the rights violated in the country, the right to a fair trial and due process are of

primary importance, since the victims of the violations described in the previous chapter could not find a judicial organ that would protect their rights. In this way, the military and their auxiliaries violently oppressed the people with complete impunity.

272. While the Haitian Constitution and some laws provided for respect for individual rights, actual practice has been another matter. A number of obstacles, both economic and political, prevented the judicial system from meting out impartial and equal justice. The lack of independence of the judiciary and the military's control over judges, their presence in the courts, and their constant intervention in judicial processes constituted continuous pressure, preventing any initiative of the courts against members of the armed forces, paramilitary groups or other supporters of the illegal de facto regime.

273. Often judges refused to initiate preliminary investigations into cases out of fear of reprisals by the military, who threatened them and their families with death or with removal from their posts. Some judges were murdered, and others were detained or beaten, which caused members of the judiciary to go into hiding ("marronage"). In the rare cases where judges ordered an investigation or the arrest of a suspect, the military or the police simply took no action. Instead, they threatened the victims's families to discourage them from having recourse to law.

274. The problem of the lack of an effective judicial system is closely related to the lack of an independent police system that inspires confidence in the people and enforces the decisions of the judiciary. Since the 1991 coup d'état, the judiciary was directed by the military, who installed most of the justices of the peace, judicial officers, including administrative staff, and quasi-judicial personnel such as the section chiefs. More specifically, the section chiefs, who operated at the community level in rural areas (where 75% of the Haitian people live), took upon themselves powers far beyond their mandates and virtually established their own local government system, performing the functions of the police, the public prosecutor's office, and the courts, and collecting illegal taxes from the people.

275. Another factor adding to the malfunction of the justice system is the economic problem. The lack of material and financial resources helped to impede the exercise of justice since most of the courts do not have basic supplies for their work, such as legal texts, file paper, telephones, etc. Moreover, the low salaries of judges and justice officials explains the magnitude of the corruption problem in the judicial system.

276. Another problem in the judiciary is that justice is not administered in a juridical manner. This is due to the fact that most of the judges and judicial officials have not received legal training, and have been appointed on the basis of political or social standing. This explains why the Haitian judicial system is compared to a market where everything is for sale and everything can be bought. People must pay to avoid being sent to or to get out of prison, and even to send someone to prison and make sure he stays there.

277. The absence of professionalism in selecting and training members of the judiciary, together with the corruption prevailing in the system causes both improper enforcement of the law and application of the law in violation of the Haitian constitution. The number of judges who still respect professional ethics do so at the risk of the consequences they must face.

278. In the present situation, there is no court that inspires confidence in the Haitian people that their civil or penal disputes can be settled. The judiciary's lack of credibility sometimes caused the Haitian people to take justice into their own hands. However, such actions were violently repressed by the armed forces.

279. With the return of the democratic government, plans and programs have been initiated to reorganize the judiciary. However, there is an urgent need for training programs to set up a provisional judiciary to deal with the people's current problems while the judiciary is being reformed and a new police force in the service of the law is being established.

280. The Inter-American Commission on Human Rights considers that genuine reform of the judicial system requires emphasizing the legal and moral character of the members of the judiciary, their commitment to human rights and their support of the democratic regime. Financial support from the international community is essential to achieve this important task, and the United States, France and Canada, as well as the UN and the OAS have expressed interest in helping to rebuild Haiti's legal institutions.

4. The situation in the prisons

281. One of the activities for the defense and promotion of human rights carried out by the Commission is the observation of such rights in penitentiary centers. During all of the visits made by the Commission in Haiti following the coup d'état, it inspected the situation in the prisons and the legal status of prisoners, except for during the visit of May 1994, when the military leaders did not authorize entry into any detention center.

282. During these visits, the Commission observed that the procedures and conditions of detention violated the norms stipulated in both domestic and international law. Although there are 15 prisons in Haiti, many detainees were held at military barracks or posts throughout their incarceration. In its report covering 1993, the Commission indicated: "Numerous persons are illegally detained and held for long periods of time, in some cases up to two years. Conditions of imprisonment in the prisons, which are administered by the Armed Forces of Haiti, remain bad. Commission members who visited some of the prisons observed overcrowding and signs of malnutrition among some of the prisoners. They also heard of prisoners being subjected to mistreatment and beatings by prison guards."

283. During its on-site visit in October 1994, the Commission visited the National Penitentiary Center in Port-au-Prince and traveled to the prisons in the towns of Saint Marc and Gonaïves, where they met with officials in charge of the detention centers in question and spoke privately with prisoners. It requested direct information on the juridical situation and the hygiene and nutrition conditions for detainees, as well as on prison conditions in general.

284. In the three detention centers inspected on October 25, 1994, the Commission observed that the Multinational Force was in control of the prisons. However, Haitian Army officials were in charge of the prisoners.

A. National Penitentiary Center

285. The IACHR delegation which visited the National Penitentiary Center in Port-au-Prince met with Major Serge Justafort, an official of that prison, who stated that about 186 prisoners were there at the time, only 28 percent of whom had been sentenced. He indicated that on October 15, with President Aristide's arrival, there was a mass escape from the Central Penitentiary, when about 300 prisoners managed to flee. Justafort pointed out that most of the offenders were sent by the Anti-Gang (Investigation Service) [Brigade] and that prisons came under the authority of the "Grand Quartier Général" [Military Headquarters].

286. The Commission was able to verify that there was no separation between prisoners who had been sentenced and those who were in preventive detention. As for prisoners who were minors, Major Justafort stated they were picked up by the social system. However, during the visit, the Commission met a boy who said he was 14 years old and had been imprisoned since the age of 12.

287. Major Justafort explained that the budget was not adequate to feed the prisoners, nor did it manage to cover health expenses, which was why the prisoners did not receive medical assistance. He added that staff in charge of the prison changed constantly, and this caused instability in prison administration.

288. The Commission asked about disciplinary measures in the prison and was told that the measure most widely used was that of keeping the prisoners in their cells for the whole day and suspending visits. In extreme cases, they were taken to an isolated cell.

289. The Commission met with three groups of prisoners: women, soldiers, and common offenders. The three groups were accommodated in an old building in insanitary conditions and separated in different sections. The offenders in the three groups all complained about the following: 1) the lack of food, since they were fed only once a day, and they pointed out that the guards often stole the food that family members brought for the prisoners; 2) the lack of hygiene, since the only source of water was a tank located on the patio, which was used for drinking, bathing, and washing clothes; 3) the lack of medical assistance was also a motive for general complaint; and 4) everyone complained about the fact that they could not see their family members since, because of the breakout that occurred on October 15, 1994, visits had been suspended.

290. About 90 percent of the prisoners stated they had not been sentenced. Many of them had been arrested six months earlier and some had done up to 22 months without a judicial decision having been taken. The military prisoners stated they had been accused of desertion, indiscipline, or political crimes and were requesting a presidential pardon for all of them.

B. Prisons at Gonaïves and Saint Marc

291. With respect to the prisons at Gonaïves and Saint Marc, the Commission noted the prisoners' overcrowded situation in insanitary, poorly ventilated cells and a total lack of hygienic services. The prisoners' ages ranged from 16 to 63, and there were generally more than 25 prisoners to a tiny cell.

292. The Commission was informed by the offenders themselves that they received no food whatever from the prison authorities. Some complained they had not eaten for several days. A number of them showed their emaciated bodies, while others stated that their family members brought them food, which they sometimes shared with others who had nothing to eat. Drinking water was a scarce resource.

293. The prisoners did not have access to any medical service. The Commission spoke with a young man who showed his infected hand and with two others lying on the ground, who affirmed they had been sick for three days and had not received any medical treatment. The IACHR President asked the commander of the prison to ensure that the sick persons were examined and taken to hospital. A request was also made to remedy the lack of food for the prisoners.

294. On the other hand, the Commission noted that family members were permitted to visit, and there was no evidence that women and men were detained in the same prison quarters.

295. Upon the Commission's arrival in Haiti, it was informed that various prisons in the country had been opened or that prisoners had escaped a week before the restoration of the democratic regime. At the time of its visit to the detention centers, the Commission verified that prisoners had been arrested October 15-25 for common-law offenses. Up to that date, they had not been taken before a judge.

C. Prisoners detained by the Multinational Force

296. During the on-site visit in October, the Commission was informed of the existence of numerous prisoners detained by the Multinational Force in the days preceding the occupation in Haiti. The Commission met with military officials of this institution, who indicated that, at the beginning, 150 persons had been arrested; many of them had been freed after their cases were investigated, and others had been handed over to the local authorities. At that time, there were only 37 prisoners at a Center of detention situated near the airport.

297. The Commission was informed that the policy of the Multinational Force was not to intervene as a police force in internal Haitian affairs, except in those cases that represented a threat to the Multinational Force, or when a serious crime had been committed under Haitian

law. To that end, the peacetime rules of engagement (ROE), which went into force on September 21, 1994, during the civilian-military operation in Haiti, stipulate the following, among others:

- Use all necessary force, up to and including deadly force, to defend us forces, us citizens, or designated foreign nationals against an attack or threat of imminent attack. When deadly force is employed, engage targets with observed, deliberately aimed fire.

- Civilians may be stopped if they appear to be a threat to us forces, protected persons, key facilities, or property designated mission-essential by CJTF 180. If determined to be a threat, they may be further detained, if not, they will be released.

- Persons observed committing serious criminal acts will be detained using minimal force necessary up to and including deadly force. Serious criminal acts include homicide, aggravated assault, rape, arson and robbery. Non-lethal force is authorized to detain persons observed committing burglary or larceny. Release persons suspected of serious criminal acts to haitian law enforcement officials/other appropriate authorities as soon as possible.

298. Regarding the conditions of inmates, attorneys of the Multinational Force told the Commission that, in such cases, the international principles of humanitarian law in the Geneva Conventions apply. Visits of families and attorneys are allowed, as are visits of the International Committee of the Red Cross. This was corroborated by various sources, including families of some inmates.

299. Finally, the Commission was informed that detainees would be handed over to the Haitian judicial authorities, once the justice system was in a position to take adequate and efficient action.

CONCLUSIONS AND RECOMMENDATIONS

300. Based on the account of the development of the political and human rights situation in Haiti in 1994, the Inter-American Commission on Human Rights offers the following conclusions and recommendations.

301. The deterioration in the human rights situation in the first eight months covered by this report (January-August) had a devastating impact on the Haitian people as a result of the violence against them by the military dictatorship.

302. Subsequently, with the change in the political situation resulting from the military occupation of Haiti by the Multinational Force, pursuant to UN Security Council Resolution 940, enabling constitutional President Jean- Bertrand Aristide to be reinstated, the Commission notes the beginning of fundamental changes, especially in the human rights situation. The departure of the dictatorial regime put an end to the general climate of terror and human rights violations that prevailed in Haiti, and enabled political activities to resume in many areas of the country and substantial freedom of the press to be reinstated. However, the Commission is aware that

serious problems inherited from the military regime remain for the constitutional government to deal with as soon as possible to keep them from endangering the newly formed democracy.

303. The systematic oppression during the military regime was designed to wipe out any kind of organized activity, freedom of speech and of assembly, and any activity in support of the democratic regime. Cases of arbitrary arrest, beatings, illegal raids, confiscation and burning of property, forced disappearances and torture increased during the year covered by this report, compelling the victims and their families to abandon their homes and go into hiding, thereby trampling on the rights of the children. The continuing flight of the people inhibited their ability to organize, thereby weakening the political, social and economic structures that might have threatened the illegal de facto regime. As a consequence of this oppression, the guarantees set forth in articles 4, 5, 7, 8, 13, 15, 21 and 25 of the American Convention on Human Rights, of which Haiti has been a party since 1977, were violated.

304. In early January 1994, the military regime applied new oppressive methods, which were particularly effective in terrorizing the people, including rape of women for their militancy and or their association with militant family members favoring the return of President Aristide. In Haiti, those rapes were an instrument of repression for political purposes. The intent of those responsible was to destroy any democratic movement through the terror created by those sexual crimes. The Commission considers that this kind of rape constitutes a form of torture within the meaning of article 5 (2) of the American Convention.

305. Massacres against rural populations, under the guise of putting down rebel groups, and the appearance in the streets of Port-au-Prince of badly disfigured and mutilated corpses, were also used as an instrument of oppression and political intimidation. The Commission noted that the right to life set forth in Article 4 of the American Convention was one of the rights most commonly violated, reaching such a level of extreme cruelty that entire towns were surrounded by the military and the people were murdered indiscriminately.

306. Currently, disarming the people is one the most serious problems confronted by the constitutional government of Haiti. Widespread possession of weapons endangers the stability of the new regime and prevents the establishment of the rule of law. In this regard, the Commission considers that specific measures should be taken immediately to disarm the people completely. Although the Multinational Force purchased and confiscated around 19,000 weapons, the weapons and the apparatus of the dictatorship have not been completely replaced in some areas of the country. They continue to be the cause of insecurity and fear in the people, particularly in those areas not reached by the Multinational Force.

307. The Commission is aware of the difficulties in completely disarming the people, but it considers that the Haitian Government, and the Multinational Force should redouble their efforts and continue searching for hidden weapons still in the possession of the section chiefs, the "attachés," "macoutes" or FRAPH members that enable them to continue to stir up violence. Moreover, the constitutional government should implement a strict control program on the possession of weapons, which is permitted under the Constitution so long as they are registered with the police. With new registration, existing permits would be canceled and only those issued by the new police would be accepted.

308. The collaboration of the Haitian Armed Forces with the Multinational Force has in some cases created an atmosphere of distrust and suspicion among the people. For example, the fact that complaints and information on weapons possession or hiding places provided to the Multinational Force is checked by the Haitian military casts doubt on the effectiveness of the disarmament process. Moreover, the detention by the Multinational Force of known "attachés" or "macoutes", who are then turned over to the police, who in turn releases them, results in a prevailing sense of insecurity so that "marronage" (going into hiding) persists.

309. The Commission notes with satisfaction that the necessary steps are being taken to set up a new police service under the civilian control of the Ministry of Justice, and that there are plans to establish a Police Academy to train members of an independent and efficient police service. However, it is essential for the Haitian Government to apply criteria in selecting police personnel which ensure that persons with records of human rights violations are not selected. In making these selections, it would also be important to have the assistance of the OAS/UN Civilian Mission, which has a vast amount of information on the human rights violations that occurred during the dictatorship.

310. The Commission is convinced that to achieve genuine human rights protection for the Haitian people and to ensure that perpetrators of criminal acts are brought to justice, the judicial system will have to be substantially reformed as soon as possible. While plans and programs have been initiated to reorganize the judiciary, it is urgently necessary to implement training programs to ensure that there is in place a judicial system that will be able to deal with the people's present problems.

311. The problem of the lack of an effective judicial system is closely linked with the absence of a police force that can gain the people's confidence and maintain law and order. Starting with the 1991 coup d'état, the judiciary has been dominated by the military which installed a majority of the justices of peace and judicial officials, including administrative and quasi-judicial staff, such as the section chiefs. Many of these people continue in their posts despite having been involved in human rights violations. This has deeply affected the morale of the people who do not dare to report or testify about crimes for fear of encountering officials who supported the military dictatorship.

312. The Commission considers that to achieve genuine reform of the judicial system, the focus must be on persons possessing the necessary competence, moral character and impartiality. It is essential for the international community to make every effort to provide human and material resources to achieve this important goal. The Commission is pleased that countries such as the United States, France, and Canada, along with the UN and the OAS, have demonstrated their interest in helping to rebuild Haiti's legal institutions.

313. In respect of the situation in the detention centers, the Commission found that the prison system inherited by the constitutional government is in crisis. The National Penitentiary should be shut down because it is far below minimum international standards. The government should invite international prison system experts to convert one of the military camps into a model

national prison. Such camps will no longer be necessary with the planned reduction in the armed forces.

314. The Commission notes with satisfaction the democratic government's plans to transfer jurisdiction of the prisons from military to civilian control. However, it wishes to point out that the most urgent problems of the prison system should be addressed immediately. These are: insufficient food and lack of medical care, and the absence of judicial process for inmates. The Commission considers it necessary to establish a special commission, under the Justice Ministry, to review the situation of inmates immediately. International aid will be required and the Commission urges the international community to provide assistance in this activity also.

315. The institutionalized practice of unpunished violence resulting from the domination of the military over the administration of justice prevented victims of human rights violations from enjoying their right to a fair trial. The Commission considers that the government has an inescapable duty to investigate and determine responsibility for human rights violations against the Haitian people during the three-year military dictatorship. The Commission notes with satisfaction the establishment of the Justice and Truth Commission by the Haitian Government and to expresses its confidence that this institution will carry out its tasks promptly and efficiently.

316. Reestablishment of the constitutional government in Haiti and economic aid programs by the international community have created a promising climate both inside and outside the country. In particular, great expectations have arisen among the Haitian people, who have long suffered from every kind of deprivation. The economic and social situation in Haiti is characterized by economic stagnation and widespread unemployment. Lack of basic public services such as water and electricity, plus insanitary conditions and malnutrition suffered by most Haitians, underscore the urgent need to provide financial assistance and technical cooperation from the international community to assist in the development of the country. Unfortunately, the delay in furnishing financial aid has made it impossible to meet these needs to improve the daily life of the poorest sectors of the country, which has generated frustration among them. It is crucial for the country's economic capacity to be bolstered as soon as possible by aid from the international community.

317. Pursuant to the duties assigned it by the OAS Charter and the American Convention on Human Rights, the Commission will continue its efforts to protect and promote human rights in Haiti, and it reaffirms its continued cooperation with the constitutional government of the Republic of Haiti.

ANNEX I

Appendix I

EXTRAJUDICIAL EXECUTIONS OR DEATHS IN SUSPICIOUS CIRCUMSTANCES
REPORTED TO THE MISSION

(January 31 to June 30, 1994)

	Feb.	March	April	May	June	Total
Number of cases reported to the Mission	77	83	76	63	41	340
Number of cases confirmed	34	32	37	36	20	159
Place of the violation						
Port-au-Prince	44	33	43	37	30	187
Cité Soleil	27	44	10	18	6	105
Total for Port-au-Prince (including Cité Soleil)	71	77	53	55	36	292
Interior of the country						
West	1	5	5	7	1	19
Artibonite	0	0	15	0	0	15
Center	1	0	0	0	0	1
North	4	0	1	0	1	6
South	0	1	2	0	3	6
South-East	0	0	0	1	0	1
Total for interior of the country	6	6	23	8	5	48
Number of victims identified	34	20	44	36	20	154
Number of victims partially identified	9	7	3	1	3	23
Number of unidentified victims	34	56	29	26	18	163
Number of executions in which members of the Armed Forces, FRAPH, or civilian auxiliaries participated	22	13	26	13	4	78
Number of victims who were militants or alleged	20	9	12	12	12	65

political militants						
Number of militants executed by members of the Armed Forces, FRAPH, and/or civilian auxiliaries	14	4	3	5	2	28
Number of cases recorded in testimonies drawn up by a justice of the peace	19	17	26	20	6	88
Number of victims who were minors	5	7	3	6	2	23
Breakdown by sex						
Male	71	76	67	57	37	308
Female	6	7	9	6	4	32

Source: OAS/UN International Civilian Mission, Research Department.

Appendix II

ABDUCTIONS AND ENFORCED DISAPPEARANCES REPORTED TO THE MISSION

(January 31 to June 30, 1994)

	As at Feb. 28	March	April	May	June	Total
Total cases reported	18	27	33	24	29	131
Abductions or disappearances for political motives	16	24	18	15	23	96
Victims freed	6	9	11	6	10	42
Victims detained at a clandestine center	5	7	4	5	7	28
Victims whose corpses were recovered	2	3	6	2	3	16

Victims whose fate is unknown	10	15	16	16	16	73
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Appendix III

VIOLATIONS REPORTED TO THE MISSION

(January 31 to June 30, 1994)

	Feb.	March	April	May	June	Total
Number of violations reported to the Mission	24	14	9	22	5	76
Perpetrators of the violations						
Members of the Armed Forces, FRAPH, and/or civilian auxiliaries	5	5	4	12	3	29
Armed civilians and/or <i>zenglendos</i>	19	9	5	10	2	47
Number of victims alleged to be political militants	9	6	6	15	3	40
Number of victims who were militants	6	2	1	3	1	14
Number of collective violations	5	2	3	12	3	25
Number of victims who were minors	5	3	0	3	0	11
Number of rapes followed by pregnancy	4	0	0	0	0	4
Place of violations						
Port-au-Prince	24	12	8	13	4	63
Interior of the country	0	2	1	9	1	13
(total)	0	2	0	0	0	2
Center	0	0	0	2	1	3
South	0	0	1	7	0	8
North						

Source: OAS/UN International Civilian Mission, Human Rights Division.

ANNEX II

N° 10/94

The Inter-American Commission on Human Rights (IACHR) of the Organization of American States considered the human rights situation in Haiti at its eighty-fifth session (from January 31 to February 11, 1994) and decided to carry out an on-site visit to that country.

The purpose of the visit is to continue to observe the human rights situation in Haiti and to evaluate the exercise of, and respect for, those rights in accordance with the American Convention on Human Rights, to which Haiti is a party, and to draw up any recommendations the Commission deems necessary.

The Commission will carry out its visit from May 16 to 20, 1994. The Special Delegation of the IACHR will consist of the following persons: Dr. Patrick Robinson, Prof. Claudio Grossman, and Ambassador John Donaldson, members of the Commission. The Delegation will be assisted by Dr. Edith Márquez Rodríguez, Executive Secretary of the IACHR, Dr. Bertha Santoscoy-Noro, Human Rights Specialist (already in Haiti), Dr. Relinda Eddie, Dr. Isabel Ricupero, Mr. Serge Bellegarde of the Translation Office, and Ana Cecilia Adriazola, Secretary of the IACHR.

In the course of its mission the Delegation expects to meet with and obtain information from representatives of all sectors of Haitian society in order to gain more insight into the human rights situation in Haiti.

The Commission will stay at Hotel Villa Créole and be available to anyone who wishes to present individual denunciations of human rights violations, on Wednesday, May 18, from 2:00 p.m. to 4:00 p.m.

The Commission will end its visit with a press conference to be held at the Holiday Inn on May 20 at 10:30 a.m.

Port-au-Prince, May 11, 1994

PRESS COMMUNIQUE

N° 11/94

In the face of the worsening situation with regard to human rights in Haiti, the Inter-American Commission on Human Rights decided during its 84th session held in February 1994 to conduct an on-site visit to that country. That visit was conducted from May 16 through 20.

The delegation comprised the following persons: Patrick Robinson, Amb. John Donaldson, and Prof. Claudio Grossman, members of the Commission. It was assisted by Edith Marquez Rodriguez, Executive Secretary of the IACHR, Bertha Santoscoy, Relinda Eddie, and Isabel Ricupero, attorneys at the Commission; Serge Bellegarde, OAS interpreter, and Mrs. Ana Cecilia Adriazola, secretary of the delegation.

Today marks the conclusion of the visit of the IACHR's special delegation. That visit was conducted within the parameters of its competence as established in the American Convention on Human Rights to which Haiti is party.

During its stay in Haiti, the delegation met with Prime Minister Robert Malval and with Ministers Victor Benoit, Rosemont Pradel, Louis Dejoie II, Berthony Berry; with Amb. Colin Granderson, Director of the OAS/UN International Civilian Mission, and Mr. Tiébilé Drame, a member of that Mission; with papal nuncio Monsignor Lorenzo Baldisseri; with the President of the Chamber of Deputies, Frantz Robert Mondé, and with the President of the Senate Firmin Jean Louis. The delegation also asked to meet with the Chief-in-Command of the Armed Forces of Haiti, General Raoul Cedras, and members of the Chief of Staff as well as the Chief of Police, Lt. Col. Michel François, but received no response to their request.

The delegation also met with the coordinator of the former Presidential Commission, Father Antoine Adrien; with representatives of nongovernmental organizations --grassroots organizations and human rights groups-- and with leaders of several political parties to learn about the human rights situation in the country. It also interviewed representatives of the print and broadcast media from whom they heard testimony on the state of freedom of expression in Haiti. The IACHR delegation also met with representatives of the industrial sector and the churches.

Because they were unauthorized to do so, the delegation was unable to visit the penitentiary in Port-au-Prince. They were therefore unable to ascertain directly the condition of the prisons and the situation with regard to judicial process for prisoners.

During its stay, the delegation of the IACHR obtained considerable information and repeatedly heard testimony from victims of human rights violations.

The delegation was able to confirm the serious deterioration in the human rights situation in Haiti since its last visit in August 1993. The delegation has in its possession detailed and reliable information on numerous violations of the right to life, executions, and disappearances which have taken place in the past four months. It has documentation with the names and circumstances involving 133 cases of extrajudicial executions between February and May this year and more than 210 reports of these types of crimes.

The delegation also received information on severely mutilated bodies and had direct confirmation in one such case. Information received by the delegation indicates that the purpose of these acts is to terrorize the population.

In the face of the tragic scene of human corpses being eaten by animals the delegation endorses Prime Minister Malval's proposal to enlist the assistance of the international organizations in removing corpses given the inaction of those who are in power.

The delegation also received numerous reports of arbitrary detention, routinely accompanied by torture and brutal beating by agents of the Armed Forces of Haiti and paramilitary groups, especially members of the Revolutionary Front for Advancement and Progress in Haiti (FRAPH), who act in concert with the Armed Forces and Police. The delegation saw for themselves victims of torture and noted the circumstances under which such torture had taken place. It also received documentation on 55 cases of political kidnapping and disappearances during February and March. Since then, 20 people have been released and 11 have been found dead. To date, no information is available on the fate of the other 24 missing persons.

The delegation received strong evidence that in Port-au-Prince, armed paramilitary groups have raided neighborhoods, notably in Cite Soleil, Sarthe, Carrefour, Fonds Tamara, among others, murdering and pillaging residents who, for the most part, support the return of President Jean-Bertrand Aristide.

Reports received by the delegation point to an increase in the number and brutality of human rights violations by the Army, FRAPH, and other paramilitary groups working in tandem with the military (attaches) in the country's interior. They also heard testimony proving conclusively the liability of the army in massacres of defenseless groups of the population in Raboteau, Gonaives, Department of Artibonite, on March 22 last. There, between 15 and 20 residents were executed with no justification. Information the delegation also received leads to the conclusion that the army attacked defenseless groups of the population in the Departments of the Center (Saut d'Eau) and the North (Borgne).

These attacks bear similar traits: actual military campaigns where army units, assisted by FRAPH and other paramilitary groups, surround and burst into certain areas under the pretext of combatting subversive groups, indiscriminately beating residents and committing acts of arson, destruction and theft, followed by arbitrary detentions.

The delegation further observed that most of the violations reported follow a systematic pattern of repression, indicative of a political plan to intimidate and terrorize the people of Haiti, especially sectors that support President Aristide or that have expressed themselves to be in favor of democracy in Haiti. According to information received, victims are kidnapped, forced to get into vehicles and are taken blindfolded to clandestine places of detention where they are interrogated and tortured. Some victims have been released, others have succumbed as the result of severe beating

The delegation received reports of rape and sexual abuse against the wives and relatives of partisans of the democratic regime whose wives and children happen to be on the spot when they

are being sought out. These wives and children are abused by the military, "attaches", or members of FRAPH, when they are unable to locate the partisans. Thus, sexual abuse is used as an instrument of repression and political persecution. Despite the reticence of the victims in reporting these crimes, the delegation received conclusive proof of 21 incidents of violations occurring from January to date. During its visit, the delegation met directly with 20 victims of this horrible practice. The international community has repeatedly recognized the universal character of women's rights as well as the fact that rape is one of the greatest crimes against them.

Given the seriousness of this crime, the Commission will give special importance to rape in the report it will submit to the upcoming session of the General Assembly of the Organization of American States.

In fulfillment of the functions assigned to it under the OAS Charter and the American Convention on Human Rights, the delegation observed the status of other rights, in addition to those mentioned above.

With respect to the right of assembly, the delegation has concluded that exercise of this right does not exist for those who support a return to democracy. When groups of individuals try to exercise this right they are arrested and brutally beaten by members of the military and police force, and accused of organizing meetings in support of President Jean-Bertrand Aristide. In a recent incident, 20 participants were arbitrarily arrested at a meeting for legal training organized by the diocese in Hinche, Department of the Center, on April 29, and accused of being terrorists.

The delegation wishes to express its concern with regard to exercise of the right to freedom of expression. Information received would confirm restrictions endured by representatives of the press and radio in Haiti. These have led to self-censorship of the media to the detriment of its functions of keeping the Haitian public informed. The delegation heard testimony of acts of intimidation and repression of journalists exercising their profession.

With regard to the problem of displaced persons (maroons) the delegation confirmed that political activists, community leaders and numerous opponents of the de facto authorities have had to live as fugitives in their own country, forced as they are to abandon home and family. The delegation received convincing information that the number of displaced persons continues to increase at an alarming rate and it therefore behoves the international community to take a direct interest in this situation.

The delegation received claims from Haitian nationals who have returned home that they have been subjected to persecution and violations of their right to physical and moral integrity. The Commission will open cases concerning these complaints.

One common trait that emerges from these violations reported to the delegation is the total ineffectuality of the judiciary or other mechanisms to prevent or punish human rights violations in Haiti. The result is outright impunity for the perpetrators of these violations.

The delegation wishes to note that as the body responsible for observing respect for human rights embodied in the American Convention on Human Rights, it cannot fail to mention the right to participate in government established in Article 23 of that Convention. The attempt to install a "government" without the vote of the people and in breach of the Haitian Constitution is a flagrant violation of the political rights of the people of Haiti.

The delegation wishes to note for the record the importance, seriousness and objectivity of the work and reports of the OAS/UN International Civilian Mission which it observed throughout its visit. The delegation expresses deep concern in the face of the acts of intimidation and aggression, on March 23 last, to which members of the Mission were subjected in the Hinche region (Central Plateau) by a number of demonstrators acting at the bidding of members of FRAPH. The delegation condemns the passive stance of the military authorities there in putting an end to these acts which once again are indicative of their open complicity with the members of FRAPH.

The delegation feels that given the seriousness of the prevailing situation in Haiti, the number of observers of the OAS/UN International Civilian Mission must be increased to more adequately cover the entire country.

In conclusion, the delegation notes that, based on its observations, the overall picture with regard to the human rights situation is one of a very serious deterioration in the most elementary human rights in Haiti --all part of a plan to intimidate and terrorize a defenseless people. The delegation holds those in de facto power in Haiti responsible for these violations. They have engaged in conduct that make them liable to be charged with international crimes, which give rise to individual liability.

The delegation will report on the outcome of this visit to the Twenty-fourth Regular Session of the OAS General Assembly, to be held in Belem, Para, in Brazil this coming June.

The delegation wishes to thank the various sectors and individuals in Haiti for their cooperation and assistance during their visit.

The Inter-American Commission on Human Rights will continue to observe the human rights situation in Haiti. It will conduct any visits it considers necessary, in exercise of its functions, and will keep the Organization of American States and the international community informed accordingly.

Port-au-Prince, May 20, 1994

PRESS COMMUNIQUE

N° 17/94

The Inter-American Commission on Human Rights reaffirms its profound concern pertaining to the flagrant and systematic human rights violations occurring in Haiti as a result of the increased repression carried out by the authorities who illegally hold power in that country.

The commission has conducted three visits and presented three special reports to the General Assembly of the OAS since the overthrow of the constitutional government of President Jean-Bertrand Aristide which was chosen in an internationally supervised and confirmed free and fair election. On the basis of its continuing examination of Haiti, most recently in May 16-20, 1994, the Commission has documented an appalling number of human rights violations that are directly related to the continuing unlawful exercise of power by the Haitian military and its appointees. The Commission confirmed during its last on site visit that the situation of human rights in Haiti had seriously deteriorated since its previous visit in August of 1993, and that there had been an escalation in the number and brutality of human rights violations committed by members of the military, paramilitary groups and police. The Commission also confirmed the total inefficiency of the judiciary or other mechanisms to prevent or punish human rights violations in Haiti. As a result, perpetrators of human rights violations act with outright impunity.

The Inter-American Commission on Human Rights also views with special concern the expulsion of the UN/OEA International Civil Mission from Haiti on July 11, 1994. Given the extremely grave situation of human rights in Haiti, the Commission notes the importance, seriousness, and objectivity of the work and reports of the OAS/UN Mission which permitted the protection of some persons and allowed the flow of information regarding human rights violations in Haiti. The facts and cases which the Mission has been able to collect and provide were important for the work of the Commission. The expulsion of the OAS/UN Mission deprives the Haitian people of a witness to the violations and the human rights institutions of a source of data which is indispensable for their work.

In the light of recent developments, the Inter-American Commission on Human Rights considers that it would be advisable to conduct a visit to Haiti as soon as possible so as to observe the human rights situation in accordance with the American Convention on Human Rights, to explore ways to end violations, and to develop alternative means of gathering information.

Washington, D.C., July 27, 1994

PRESS COMMUNIQUE

N° 19/94

The Inter-American Commission on Human Rights has been following, with ever-growing concern, the continuing deterioration of the human rights situation in Haiti. The armed forces, in effective control of the country, have continued to commit murders, forced disappearances, torture, sexual violations, illegal detentions and other types of violent acts against a defenseless people.

The situation has been further aggravated by the expulsion of the Civilian Mission, which provided a flow of information to the world community and by its mere presence acted as some restraint on the violence of the military. The cold-blooded assassination of Father Jean-Maire Vincent this week is only the latest of this series of gross acts of violence which have been conducted with impunity.

The Commission intends to devote a part of its upcoming session in September, 1994 to a detailed examination of the situation in Haiti and the steps which it can take to contribute to the alleviation of the continuing pattern of violation of human rights there.

Washington, D.C., August 31, 1994

PRESS COMMUNIQUE

N° 21/94

At its 87th session (September 19-30, 1994) the Inter-American Commission on Human Rights (IACHR) of the Organization of American States considered the human rights situation in Haiti and decided to accept the Government's invitation to visit the country.

The Commission will make the visit between October 24 and 27, 1994. The Commission's special delegation will consist of the following persons: Prof. Michael Reisman, Chairman of the IACHR; Dr. Patrick Robinson and Prof. Claudio Grossman, members of the Commission; Dr. Bertha Santoscoy-Noro, Human Rights Specialist, in charge of Haiti; and Drs. Relinda Eddie, Isabel Ricupero, and Meredith Caplan (already in Haiti).

The purpose of the visit is to continue to observe the human rights situation in Haiti, to assess the exercise of and respect for those rights in terms of the American Convention of Human Rights, to which Haiti is a party, and to make any recommendations the Commission deems necessary.

In the course of its mission, the delegation hopes to meet with representatives of all sectors of Haitian society so as to come to a better understanding of developments in the human rights situation in Haiti.

The Commission will be at the disposal of anyone wishing to lodge individual complaints of human rights violations on Tuesday, October 25, from 10 a.m. to 12 noon at the Hotel Villa Créole.

At the conclusion of its visit, on October 27 at 9 a.m., the Commission will hold a press conference at the Holiday Inn.

Port-au-Prince, October 19, 1994

PRESS COMMUNIQUE

N° 22/94

At its 87th period of sessions, (19 to 30 September 1994), the Inter-American Commission on Human Rights accepted the invitation by Haiti's Constitutional Government to carry out an on-site visit to observe the human rights situation in the country. The on-site visit was conducted between October 24 and 27, 1994.

The Commission's special delegation was composed of Professor Michael Reisman, President of the Commission, Mr. Patrick Robinson, Professor Claudio Grossman, Members of the Commission, Doctor Bertha Santoscoy-Noro, Human Rights Specialist, in charge of Haiti, and Doctors Relinda Eddie, Meredith Caplan and Isabel Ricupero, staff attorneys. Serge Bellegarde served as translator. Gloria Hansen and Cecilia Adriazola provided secretarial and administrative support.

The IACHR special delegation's visit, which concludes today, was carried out in accordance with its mandate set forth in the American Convention on Human Rights, to which Haiti is a party.

During its visit in Haiti, the Commission met with the President of the Republic, Jean-Bertrand Aristide, to whom it expressed the Commission's profound satisfaction with the restoration of the democratic regime in the country. The Commission reiterated its interest in continued collaboration in all matters that fall within its mandate.

The Commission interviewed the Chief of the Armed Forces, General Jean-Claude Duperval about the changes that are being effected within the Armed Forces.

The Commission met with Ambassador Colin Granderson, head of the OAS/UN Civil Mission, and Mr. Tiebile Drome, and with the diplomatic representatives of the five Friends of Haiti: Argentina, Canada, The United States, France and Venezuela. Furthermore, the Commission met with members of the Parliament, with the coordinator of the former Presidential Commission, Father Antoine Adrien, and with the Mayor of Port-au-Prince, Mr. Evans Paul.

The Commission also met with representatives of human rights groups, grassroots organizations and leaders of political parties to collect information on the human rights situation in the country. The Commission interviewed representatives of the oral and written press, who expressed their opinion on the situation of freedom of press in Haiti. The Commission also met with representative of the International Committee of the Red Cross, representatives of labor-unions, the Chamber of Commerce, the industrial sector and various churches.

The Commission visited the National Penitentiary Center in Port-au-Prince and went to the cities of Saint-Marc and Gonaives, where it met with victims of human rights violations which were committed during the military dictatorship. The Commission visited the prisons in both

locations, to collect direct information on the legal situation, conditions of hygiene and nutrition of the prisoners, and on general prison conditions.

During its stay in Haiti, the Commission received information and numerous complaints from victims of human rights violations during the dictatorial regime.

Beginning on September 19, 1994, the date of the arrival of the Multinational Force (MNF), a process of fundamental change has commenced in Haiti. The change is especially dramatic in contrast with the situation observed by the Commission during its prior visit in May of this year. The termination of the dictatorial regime and the return of the constitutional President, Jean-Bertrand Aristide, are essential steps in the process of ending the general atmosphere of terror and human rights deprivations which prevailed in Haiti.

The President's return has initiated many other important changes. In Port-au-Prince and in some other important urban areas, the population is now free to express, its support for the constitutional regime. Freedoms of speech, of the press, and of association are reviving after their systematic suppression during the dictatorship. The Commission has observed a resumption of political activities in many parts of the country.

Despite the significant progress recorded in the country, serious problems, inherited from the military dictatorship, persist.

A critical challenge for the transition to a civil society with a constitutional culture, is disarming the paramilitary groups. During the military dictatorship, paramilitary groups were armed and were responsible for many violations of human rights. In the weeks leading up to the arrival of the Multinational Force, the military dictatorship stated publicly that it intended to distribute arms to irregular forces. Until now, the MNF has collected what appears to be a relatively small number of the arms at large and there are reports of arms caches that have not yet been identified.

The MNF destroyed the heavy weaponry of the Haitian military that had been used in the coup. Yet, the arms and the apparatus of the dictatorship continue to be critical factors in parts of the country, where the MNF has not yet established a presence. The Commission has received evidence that a state of insecurity still prevails in parts of Artibonite, in Jacmel, in Petit-Goave and in Desdunes, to name only a few examples. One manifestation of the insecurity is "Marronage", as well as the continued internal displacement of persons. In some departments, chefs de section continue to operate despite the fact that they were involved in human rights violations.

Witnesses who appeared before the Commission and who represent a wide range of positions and views agreed that disarming the paramilitary groups is an essential step and a prerequisite for establishing a civil society based on the rule of law. The Commission appreciates the difficulties involved in finding hidden arms caches, but urges a redoubling of efforts and a most vigorous prosecution of the disarmament process. The Commission would note that the possession of fire arms is regulated in the Haitian Constitution, which requires holders of such weapons to declare them to the police.

There is still no legitimate police force in Haiti nor an adequate and efficient judiciary. Public order relies on the presence of the multinational force. Although the moderation and civility demonstrated by the Haitian people thus far have been extraordinary, the MNF, on occasion, has found itself drawn into a police function for serious and urgent situations. There has also been an anomalous situation in which known Attaches and Macoutes have been apprehended by the MNF and turned over to the Haitian police, who have released them. As a result, the system has not yet been able to begin to deal with those who might have been implicated in international crimes and crimes against humanity.

The establishment of a neutral, professional and efficient police is, by common acknowledgement, an indispensable step. The Commission has noted with satisfaction the plans for a police academy as a means for training a professional corps. But there is an immediate need for an independent and efficient police force and judiciary. Hence it is essential that, in addition to the efforts to develop permanent institutions, a force be deployed immediately on a provisional basis. That force must enjoy legitimacy and must meet the population's needs for order. The most stringent criteria should be applied by the Haitian Government in selecting these police personnel. Needless to say, the police in a constitutional system must be subordinate to civil authority.

Equally, while the plans to restructure the judiciary are being put in place, there is an urgent need for training programs to establish an interim judiciary. The emphasis must be on human rights, personal integrity and commitment to constitutional government and justice.

The prison situation that the Constitutional Government has inherited is in crisis. The National Penitentiary should be closed, for it is far below the minimum international standard. In its place, the Government may wish to invite international prison experts to transform one of the military camps into a model national prison, as such camps will no longer be necessary in light of the proposed reduction in the size of the armed forces. International assistance will be required and the Commission urges the international community to assist in this effort. The Commission applauds plans to transfer jurisdiction of the prisons from the military to a civil authority. But the most urgent problems in the prison system have to be addressed immediately. In two of the three prisons the Commission visited, prisoners are not fed by the authorities. In the other, they are provided one meager ration per day. The state must feed those it has imprisoned.

The Constitutional Government has inherited a prison system in which hundreds of people have been kept, in some cases up to twenty months, without ever having been presented to a judge. This is a violation of the American Convention and the Haitian Constitution. The Commission deems urgent the establishment of a special commission as soon as the Minister of Justice is confirmed, to review immediately the status of persons detained in prisons.

An accounting of exactly what happened during the military dictatorship and, in particular, a detailed review of the human rights violations suffered by the Haitian people is necessary, if Haiti is to rebuild its society and Government. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have held that where there have been violations of human rights, a government has a duty to investigate, establish responsibility, and

publish its findings. The absence of legal procedures for accomplishing this is not only a violation of the American Convention but also a serious obstacle to the healing of society through truth and reconciliation. There are many models for fulfilling this obligation, both national and international, and the Commission does not suggest any one in particular. The Commission would repeat, however, that investigation of human rights violations is an obligation that cannot be waived.

The Commission would hope that the Haitian Government moves quickly to establish by law, a domestic compensation committee, composed of Haitian jurists of repute, to hear claims of Haitians who allege that they have suffered violations of their human rights. Some individuals involved or closely associated with the military are alleged to have engaged in confiscation and unlawful seizure of private property, a right also recognized by the American Convention. The claims these events have given rise to should be heard and compensated as soon as possible. Any new commissions, as well as the reconstructed court system, should make Creole an operational language.

The Commission would like to thank President Aristide for his invitation to visit Haiti. The Commission would also like to thank all the authorities, organizations and persons who have worked with it during its visit.

In accordance with its functions under the OAS Charter and the American Convention on Human Rights, the Commission will continue its activities of protection and promotion of human rights in Haiti. The Commission offers its fullest cooperation to the Constitutional Government of the Republic of Haiti.

Port-au-Prince, October 27, 1994