

Activities REPORT

Informe de *2008/9*
ACTIVIDADES

CEJIL 

CENTRO POR LA JUSTICIA Y EL DERECHO INTERNACIONAL
CENTER FOR JUSTICE AND INTERNATIONAL LAW
CENTRO PELA JUSTIÇA E O DIREITO INTERNACIONAL
CENTRE POUR LA JUSTICE ET LE DROIT INTERNATIONAL
PEMONTON KOWNTOK WACÜPEYUWANÍN PATASET
WAN KASAKKA RAITKA LAKA PLAICA TASBA AISKARA



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Patricia Aballay

From the series "el agua" acrylic on cardboard (40 x 50 cm)



NOTE FROM THE EXECUTIVE DIRECTOR

Dear colleagues and friends,

I would like to introduce this annual report by reviewing some of the challenges we identified for the 2008-2009 biennium. In our 2006-2007 report we noted that impunity at the structural level still prevailed in the region, as well as the use of State institutions to perpetuate organized crime, the systematic exclusion of vast sectors of the population, the trampling of rights of indigenous peoples and persons deprived of liberty, the curtailment of women's rights, restrictions on press freedom and limitations to the guarantees of social rights. What we did not envisage at the time was that even the region's democratic system was in danger or, even less so, that we would be unfortunate witnesses to the first coup of the century to take place in Honduras in June 2009.

This event became the focus of our immediate attention. Preserving democracy, denouncing and documenting abuses, drawing attention to victims, demanding a system of guarantees for the enjoyment and exercise of fundamental rights and pursuing respect for the rule of law all became central concerns. Once again, the Inter-American System, its interaction with other regional systems, as well as advocacy efforts before the international community were key in highlighting these events and activating mechanisms that saved lives and protected the implementation of rights.

Today, many of the region's problems persist and some have even worsened. Yet we have made progress and confronted many of them successfully. We monitored the effective implementation of the Inter-American Commission on Human Rights' decision regarding the assassination of Monsignor Romero. As a consequence, the Salvadorean Government finally fully recognized the alleged violations and the need to preserve Monsenor Romero's memory and legacy. Other achievements include the unprecedented ruling by the Guatemalan Supreme Court ordering the implementation of Inter-American System sentences to be made effective immediately. But perhaps the most characteristic example of this long struggle, one that clearly highlights the results of the interaction between regional and national systems of protection, was the conviction of a democratically elected head of State, Alberto Fujimori, by the highest court of justice in Peru.

With regards to the protection of women's rights, after years of judicial discrimination in cases of sexual violence, the Bolivian State has recognized its outstanding obligations towards women by signing a friendly settlement in the MZ case. Similarly, regarding the special measures for the protection of children, the litigation of emblematic cases of child soldier recruitment in Paraguay represented

a landmark which brought radical changes to the lives of the country's children. The State was ordered to return to their homes all children under the age of 18 who were forcibly recruited. In addition, an international commitment was made to outlaw this practice.

In spite of these achievements, many problems still persist as we tackle them with renewed commitment. Some of the countries in the region which have preserved laws that guarantee impunity must still address past violations. We are therefore striving to achieve truth and justice for victims in Brazil and Uruguay through the litigation of "The Araguaia Guerrilla" and "Gelman" cases. Many challenges are still pending and are undoubtedly reflected in the alarming inequality gap which prevails in the region and prevents large segments of the population from enjoying and exercising their rights.

The Inter-American protection system has remained a crucial tool behind these and many other achievements. It has persistently defined the duties of States in combating impunity and constructing and preserving a genuine rule of law. It has also been a guiding force for protecting freedom of expression and the dissemination of ideas in a democratic society. Among other key challenges, it has forced States to recognize violations, to adapt legislation, to combat practices, to generate public policies, to pay reparations, to voice recognition, to preserve individual and collective rights and to build a better democracy.

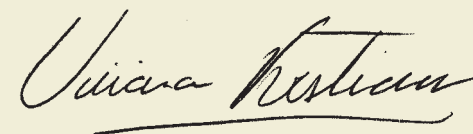
Despite progress, the Inter-American System is seeking to improve its response both institutionally and procedurally, in demanding the protection of the rights of individuals, in a region where serious human rights violations are still perpetrated in a context of weak and imperfect democracies with parallel powers. Many States have recognized their limited commitment to ensuring the human rights bodies have a consistent regional budget, which would allow them to generate a long term impact at all levels. However, this recognition has yet to be translated into real commitment.

The recent reforms to the rules of the Court and the Commission have opened up a new phase. These Inter-American protection bodies will be required to play a new role with regards to States that have not responded to alleged violations at the national level. These States not only have a political structure, but also human and material resources that are far greater than those of the victims involved in proceedings. This new phase is marked by a victory for victims of human rights violations, as CEJIL played a crucial role in obtaining approval for the establishment of a Legal Assistance Fund at the General Assembly of the Organization of American States (OAS) in 2008. In November 2009, the OAS Permanent Council finally approved the fund's operation rules which represent an unprecedented step towards greater access for victims. The main objective of a supranational protection system

is not to achieve an abstract ideal of justice but to ensure the recognition of human dignity for all and provide justice to individual victims of human rights violations.

This report presents highlights of CEJIL's activities and achievements throughout 2008 and 2009. We firmly believe that our work contributes significantly to the advancement of democracy and to the strengthening of the rule of law in the region, while specifically changing the lives of thousands of people for the better. We also know that our contribution has not been made alone. It has thrived on the work achieved with partner organizations, advocates, human rights defenders and other key stakeholders.

Sincerely,



Viviana Krsticevic
Executive Director

DONORS

CEJIL's work is made possible by the generous contributions of the following organizations:

- DanChurchAid
- Diakonia
- United Nations Development Fund for Women – Southern Cone (UNIFEM-Southern Cone)
- National Endowment for Democracy (NED)
- Foundation Open Society Institute (FOSI)
- Sigrid Rausing Trust
- United Nations Voluntary Fund for Victims of Torture
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And individual and private donors who prefer to remain anonymous.

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CEJIL would like to thank the following people for their work on behalf of the organization in 2008-2009: Michael Camilleri, Mauricio Herrera Ulloa, Vanesa Coria, Sergio Fuenzalida, Soraya Long, Nancy Marín, Sofía Castillo, Carlos Miguel Reaño, Luis Diego Obando, Jorge Paoletti, Timothy Ryan and Juliana dos Santos Santana, as well as interns and consultants, who were all essential to fulfilling the objectives of the institution.

Frequently asked questions about CEJIL

When and why was CEJIL founded?

CEJIL was founded in 1991 by a group of prominent human rights defenders from all over the Americas in order to create a regional organization that would seek justice, liberty and a dignified existence for the inhabitants of the hemisphere by focusing its efforts on the use of international human rights law and the bodies of the Inter-American Human Rights Promotion and Protection System.

In how many countries does CEJIL work?

CEJIL works across the Americas. It has offices in Washington D.C. (USA), San Jose (Costa Rica), Buenos Aires (Argentina), and Rio de Janeiro (Brazil).

How many victims does CEJIL represent?

Across the entire hemisphere, CEJIL currently represents over 13,000 victims and beneficiaries of protection measures in more than 220 cases and precautionary and provisional measure proceedings before the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human rights (I/A Court H.R.), in partnership with some 380 sister organizations

How does CEJIL choose the cases it litigates?

In order to have the greatest possible impact, CEJIL litigates cases that are emblematic of gross human rights violations in the Americas. These cases help to contribute to social justice, strengthen democracy and compel States to take steps to ensure greater respect for human rights. However, due to limited resources and the nature of its mission, CEJIL cannot take all of the cases submitted.

Do these cases make a difference?

The cases litigated by the organization not only protect victims' rights and provide them with fair reparation, but also set new human rights protection standards and ensure non-repetition of violations. Often, cases may culminate in admission by the States of responsibility and public apology to the victims, friendly settlement agreements, IACHR or I/A Court H.R. pronouncements on violations committed by States, Court-ordered reparations to victims and changes in a country's laws and policies. With regard to monetary compensation, as a result of Court judgments issued in 2008-2009, victims represented by CEJIL were able to collect payments totaling more than US\$18.9 million.

Does CEJIL charge for its legal representation?

No, CEJIL does not charge any fees to the victims it represents.

How is CEJIL funded?

CEJIL is funded by donations from foundations, European Governments and individuals (see page 5).

How can I help?

CEJIL needs volunteers (attorneys, law school students, communications professionals and translators) who are willing to help implement its mission. CEJIL also accepts donations from individuals and institutions. If you wish to contribute in some way, contact any of the CEJIL offices.

MISSION

The institutional mission of CEJIL is to contribute to the full enjoyment of human rights in the Member States of the Organization of American States (OAS) through effective use of the tools of the Inter-American system and those of other protection mechanisms in the realm of international human rights law.

VISION

We strive to attain a fully democratic hemisphere, where the rights of all are respected, a hemisphere where people live freely, without fear and want, as established in the Universal Declaration of Human Rights and the preamble to the American Convention on Human Rights; a region with strong institutions grounded in the rule of law in order to ensure, through an adequate legal framework, that public practices and policies are in line with international human rights law, a hemisphere where State protection is also reinforced by a system of subsidiary regional oversight which is prompt and effective in protecting the fundamental rights of individuals and peoples.

CEJIL is a non-profit, non-governmental organization with advisory status to the Organization of American States, and observer status to the African Commission of Human Rights and Peoples.

OBJECTIVES

- To respond to gross human rights violations committed or tolerated by State agents and combat impunity for these crimes.
- To contribute to narrowing the gap of inequality and exclusion in the region, which can be viewed in legal terms as the struggle to ensure the right to equality and respect for human dignity.
- To contribute to strengthening democracy, the rule of law and oversight institutions, as well as supporting full enjoyment of rights which have a direct bearing on proper operation of a democratic system, with particular focus on the administration of justice, human rights defenders and key social actors.
- To make the Inter-American human Rights Promotion and Protection System more effective and, particularly, expand access of individuals to its protection mechanisms.

PROGRAMS

CEJIL works towards its mission and objectives through four distinct but interrelated programs:

- 1) Legal defense
- 2) Empowering human rights defenders and other key actors
- 3) Strengthening the Inter-American System
- 4) Information Management and Communications

Asserting victims' right to justice, truth and reparation

HIGHLIGHTS OF THE LEGAL DEFENSE PROGRAM

No other organization is as highly specialized as CEJIL in human rights litigation before the Inter-American Human Rights Promotion and Protection System. Due to the specific nature of its mission and its extensive experience and expertise, CEJIL's legal defense program is unmatched in scope and diversity.

The organization has a regional litigation program which seeks to attain justice and reparation for individual victims or groups of victims of human rights violations, that it represents before the Inter-American Commission and Court.

Also through litigation, CEJIL seeks to bring about legislative, policy and institutional changes, which prevent patterns of systematic human rights abuse. Accordingly, the organization's victim advocacy efforts are focused on paradigmatic cases, which have a potential to spark political and social debate and help make conditions ripe for meaningful changes in far-reaching State policies or practices.



CEJIL and the "Jose Alvear Restrepo" Lawyers' Collective (CAJAR), at a hearing before the Inter-American Commission on Human Rights in November 2009, decried the practice of Colombia's Administrative Department of Security (DAS) of spying on human rights defenders. Among other petitioners participating at the hearing were CAJAR attorneys Rafael Barrios and Reynaldo Villalba and CEJIL's Executive Director Viviana Krsticevic. Photo: CEJIL

In 2008-09, CEJIL helped to litigate 223 individual cases as well as file requests protection measures before the Inter-American Commission and Court, on behalf of more than 13,300 victims of human rights violations and beneficiaries of protection measures. Additionally, CEJIL acted as a legal advisor 93 times to national organizations and human rights defenders and filed 4 amicus curiae briefs in proceedings before the Inter-American System and national courts.

CEJIL attorneys, Marcela Martino (left) and Gisela de Leon and Isabel Madariaga (IACHR) and Santiago Cantón, Executive Secretary of the IACHR at the hearing in the case of Monsignor Oscar Arnulfo Romero v. El Salvador in November 2009. Photo: CEJIL



Justice for Monsignor Romero

In November 2009, El Salvador admitted international responsibility for the death of Monsignor Oscar Arnulfo Romero, after decades of denying any involvement of State agents in the assassination.

Monsignor Romero, a leading defender of the Salvadoran people's human rights and critic of government and military abuses, was assassinated on March 24, 1980 by a sniper, who belonged to a death squad made up of members of the Army.

At the State's request, a hearing was held before the IACHR, during which the new government announced

the unprecedented decision to accept the binding nature of that protection body's reports; particularly, the findings of fact and recommendations in the Commission's 2000 report pronouncing the State responsible for the death of Monsignor Romero. The attitude of the Salvadoran State marked a historic change of heart, a token of good faith to implement the IACHR recommendations and the first step toward comprehensive reparation for the damage caused by the murder.

Furthermore, the State pledged to build a town square which would be named after Monsignor Romero and pro-

duce a video on the life and legacy of the Archbishop.

The IACHR report directed the State to redress the wrong, investigate the murder, punish those responsible and repeal the 1993 Amnesty Law, which closed the door to reopening investigations and allowed the human rights violations against the Archbishop and thousands of Salvadorans to go unpunished.

CEJIL joined the legal representation of this case in 1998, alongside the team headed by the Office of Legal Protection of the Archbishop of San Salvador and the brother of the victim, who first filed a petition with the IACHR in 1993.

"I want to thank CEJIL from the bottom of my heart. Along with APRODEH (Pro-Human Rights Association), CEJIL was a major support in successfully obtaining justice in the case of the forced disappearance of my brother Kenneth Anzualdo. They helped us to be heard by the world, when in my country we only were met with indifference. Institutions like CEJIL are willing to fight for causes such as ours. Without its professional and financial support, it truly would not have been possible for my family to come to the IACHR and secure the Court judgment which for us is a tool to keep on fighting for our right to the truth and justice, so that we can finally achieve the peace of mind that my family is in such need of."

Marly Anzualdo, Kenneth Anzualdo's sister. Kenneth was arrested by agents of the Peruvian Army Intelligence Service in 1993 and has been missing since. In December 2009, the Inter-American Court of Human Rights found Peru responsible for his forced disappearance.



A JOINT EFFORT WITH NATIONAL ORGANIZATIONS

A key part of CEJIL's litigation strategy is to work closely with local human rights defenders and organizations. In 2008-2009, CEJIL staff joined forces with more than 400 counterparts from throughout the hemisphere. Through partnerships, CEJIL and its allies share litigation expertise in the Inter-American System and international law, engage in regional efforts, pool knowledge of national laws and procedures, as well as detailed information on particular cases and the human rights situation of particular nations. Joint efforts make it possible to provide the highest quality representation and expand the pool of skills and expertise available to victims.

CEJIL represents all victims pro bono in the cases it chooses to litigate. This provides thousands of individuals who have little or no opportunity to gain access to the mechanisms of supranational protection with a chance to attain the justice, reparation and truth they seek, after exhausting attempts to find justice in their own countries.

CEJIL's efforts on behalf of victims before the Inter-American Commission and Court involve every aspect of legal representation, such as writing and submitting legal briefs and motions before the bodies of the Inter-American System, appearing at oral hearings, filing requests for urgent protection measures in cases of imminent risk to victims, or providing advisory services

and representation in friendly settlement negotiation procedures with the OAS member States.

Once a decision has been obtained from the IACHR or I/A Court of HR, CEJIL develops a strategy to ensure it is fully implemented and that reparations are duly processed.

CEJIL also submits amicus curiae briefs in national and international courts to help judges make better-informed decisions in some cases in which the organization is not directly involved, but have a far-reaching impact on legal precedent. It filed 4 amicus briefs over 2008-2009.

In addition to direct victim advocacy, CEJIL provides legal advisory services to human rights organizations and defenders in cases before the Court or Commission.

CEJIL IN NUMBERS

Some of CEJIL's major achievements in 2008-09

Cases litigated and protection measure proceedings during this period 223

Victims represented and beneficiaries of protection measures 13.455

Hearings before the IACHR 86

Hearings before the I/A Court H.R. 25

Advisory services provided to organizations 93

Cases of judgment execution 65

Admissions of State responsibility 10

Friendly settlements 26

Amicus curiae briefs submitted 4

Total amount of financial reparations ordered by the Court or paid by States to victims during this period US\$18.964.679

Victims benefitting from monetary compensation ordered or paid during this period 934

REACTING PROMPTLY AND EFFECTIVELY TO SAVE LIVES AND DEFEND RIGHTS

The involvement of CEJIL was instrumental to the protection of individuals and organizations at immediate risk, through requests for precautionary measures from the IACHR and provisional measures from the I/A Court of H.R. Highlights of some of these requests include precautionary measures granted by the IACHR in October 2009 to media critical of the coup d'état in Honduras. The President of the Congress and the Chief Judge of the Supreme Court were ordered to adopt urgent measures to ensure the right to freedom of expression of Channel 36, Radio La Catracha, Choluta Sur and Radio Globo, as well as to return business and broadcast equipment that soldiers and police had seized on September 26. As a result of a request submitted by CEJIL and the Center for Research and Promotion of Human Rights (CIPROHEH), the broadcast stations recovered their equipment and were able to continue to work in relative normalcy.

Another highlight was the granting of precautionary measures to Consultancy on Human Rights and Displacement (CODHES) of Colombia to ensure the lives and physical integrity of three of its members and provide protection to the organization's headquarters and staff. As a direct result of this intervention, concrete improvements were made to the personal protection measures for the beneficiaries. The context of persecution and stigmatization endured by Colombian human rights

defenders weighed heavily on the IACHR decision. Another important measure ordered by the IACHR was to provide access to information from intelligence files in possession of the State, which was a firm and decisive step toward protecting defenders from illegal monitoring by the Administrative Department of Security (DAS).

SECURING REPARATION FOR VICTIMS

CEJIL and its local partners' efforts have helped victims or their families obtain monetary and symbolic reparation to help meet material needs, preserve the memory of the condemned crimes and secure assurances of non-repetition of such crimes.

During this period, the organization secured a total of US\$4,243,800 in reparation orders for 934 victims and US\$14,720,879 in paid-out compensation originating from orders issued during this two-year period or prior years.

An example of this is the judgment finding Peru responsible for the forced disappearance of Kenneth Ney Anzualdo, wherein the Inter-American Court ordered the State to establish a genetic information system to help in determine and clarify the identity of victims of forced disappearance.

In the murder case of Monsignor Arnulfo Romero v. El Salvador, the State pledged to implement the proposal

Amicus curiae briefs

CEJIL's legal defense program in 2008-2009 also included the submission of four *amicus curiae* briefs to national and international judicial bodies to provide arguments to judges regarding cases in which it was not directly involved.

Campo algodonero v. United Mexican States

CEJIL and the International Reproductive and Sexual Health Law Program of the University of Toronto jointly submitted an *amicus curiae* brief to the Inter-American Court about the murder of women in the State of Chihuahua. The organizations found that Mexico breached its obligation to prevent and punish discrimination and violence against women by not taking the necessary measures towards eradicating persistent gender stereotypes in Chihuahua.

Ad hoc judges and the principle of procedural equality of arms in cases before the Inter-American Court

Argentina requested the Inter-American Court to issue an advisory opinion on the use of *ad hoc* judges in regional litigation. CEJIL submitted an *amicus curiae* brief contending that appointment of *ad hoc* judges has an adverse effect on the impartiality and independence of the Court, procedural equality in litigation and the legitimacy of Court decisions.

Rosendo Radilla v. United Mexican States

In a 1974 case involving Mexico's responsibility in the forced disappearance of Rosendo Radilla, CEJIL argued that the Inter-American Court had jurisdiction to rule on the case because the crime of disappearance is considered to continue until the whereabouts of the individual are known.

Challenge to constitutionality of Amnesty Law before the Federal Supreme Court of Brazil to strip perpetrators of human rights violations of their immunity from criminal prosecution

The Order of Attorneys of Brazil (the Brazilian bar association) brought an action for constitutional enforcement against a violation of a fundamental right (*Arguição de Descumprimento de Preceito Fundamental* or ADPF) to prompt the highest court of Brazil to rule that the amnesty granted under Law 6.683/79 does not cover anyone responsible for human rights violations under the Brazilian military regime. CEJIL submitted a brief to the high Court regarding international standards and legal precedents prohibiting the application of amnesty laws in cases of gross human rights violations and crimes against humanity. CEJIL Attorney Helena Rocha provided an oral argument to this effect before the Federal Supreme Court.

jointly put forth by CEJIL and the Office of Legal Protection of the Archbishop, which includes building a town square and naming it in his honor as well as introducing a bill repealing the Amnesty Law, which up until now has prevented investigation and punishment of those responsible.

As part of a friendly settlement with Paraguay stemming from the disappearance of child soldiers Marcelino Gomez Paredes and Cristian Ariel Nuñez, the State agreed to show a video at the military training academy on human rights violations in recruiting children into the armed forces. The documentary was produced by CEJIL and the Peace and Justice Service of Paraguay (SERPAJ-PY).

Child Recruitment: an End to an Aberrant Practice

Child recruitment into the Paraguayan army ceased to be a tolerated practice as a result of three cases of death or disappearance of minors, litigated by CEJIL and SERPAJ-PY before the Inter-American System. In Paraguay, 110 draftees have died since 1989. In military life, punishment and violence against child recruits used to be an accepted and justified practice. However, over the past five years, Paraguay has made significant progress in abolishing child recruitment in its armed forces, through legal reforms to prevent the abuses from happening again and to provide reparations for the damages resulting from this practice, which constitutes a violation of the rights of the child. In November 2009, Paraguay admitted responsibility for the forced disappearance of children Marcelino Gomez Paredes and Cristian Ariel Nuñez, under a friendly settlement between representatives of the State and the organizations representing the victims, CEJIL and SERPAJ-PY. The agreement requires Paraguay to create a child disappearance investigation commission and punish those responsible for the violations that took place. It also requires the State to introduce a bill to amend the Criminal Code to include the offense of forced disappearance. In 1997, the Paraguayan army illegally recruited children Marcelino Gomez Paredes and Cristian Ariel

Nuñez by forging their age on their official documents and without obtaining the consent of their parents. In February 1998, both of these children disappeared from their military unit. Their whereabouts are still unknown to date and their next of kin have not received any satisfactory explanation for their disappearance. Victor Hugo Maciel was also recruited by the Paraguayan armed forces when he was 15 years old. He died while being ordered to perform physical exercises as a punishment. As a result of the friendly settlement between the parties in July 2005, the State made changes to the laws between 2007 and 2008 prohibiting minors under the age of 18 from joining the army. Additionally, in February 2008, Paraguay paid off the monetary compensation ordered by the Inter-American Court in the case of Gerardo Vargas Areco and in December of that year, issued a public apology. Paraguay also withdrew its reservations to the Optional Protocol to the Convention on the Rights of the Child regarding the Involvement of Children in Armed Conflicts. Gerardo was recruited by the Paraguayan armed forces at only 15 years of age. The child was tortured and murdered in his military unit for taking leave without permission in 1989.



Felix Anzualdo and Marly Arleny Anzualdo, Kenneth Ney Anzualdo's father and sister, at a preparatory meeting for the trial before the Inter-American Court of Human Rights, held in Santo Domingo, Dominican Republic, in April 2009. The Court ordered the investigation and punishment of those responsible for the forced disappearance of Kenneth Ney, as well as the creation of a genetic information system to aid in determining and clarifying the identity of victims of forced disappearance. Photo: CEJIL

“2008 and 2009 have been intense. Without a doubt, the extradition of former President Alberto Fujimori and his prosecution for crimes against humanity have made a mark on our activities as human rights defender organizations and the outcome has had international and historical significance.

CEJIL’s contribution to this struggle has been crucial. Its constant advocacy with judicial actors, both in Chile and Peru, to ensure the extradition and achieve justice for the victims, the application of the due process standards and the development of doctrines on the responsibility of superiors, are reflected in the judgment issued by the court that tried the former dictator, as well as the decision of the Supreme Court upholding the punishment.

It is also important to point out that CEJIL also contributed to achieving the extradition of Alberto Fujimori as well as convictions from the Inter-American Court of Human Rights in the Barrios Altos and La Cantuta cases, which paved the way for the struggle for justice for hundreds of cases.

*Francisco Soberón
Executive Director*

Asociación Pro Derechos Humanos (APRODEH)



In November of 2009, Paraguay admitted responsibility in the forced disappearance of child soldiers Marcelino Gómez Paredes and Cristian Ariel Núñez. The photo shows the signing of the friendly settlement. From left to right: the legal representative of the Ministry of Defense, Gustavo Dávalos, Maria Claudia Pulido (IACHR) and Commissioner Pablo Carozza, CEJIL Program Director for Bolivia and the Southern Cone, Liliana Tojo, and CEJIL staff attorney, Sergio Fuenzalida. Photo: CEJIL



CEJIL was an international observer during the trial of ex President Alberto Fujimori before the Special Criminal Chamber of the Peruvian Supreme Court in November 2009. Photo: CEJIL

JUSTICE FOREVER MORE

As a result of case litigation in 2008-2009, CEJIL and its partner organizations have achieved important legal victories, which have set new standards in human rights protection and made a significant difference in the quest for justice and truth.

Some of the decisions issued by the Inter-American System's bodies of protection in cases co-litigated with CEJIL have not only had an impact on the lives of the victims represented but also on society as a whole. Findings in numerous cases have prompted the reopening of investigations into human rights violations, led to prosecution and punishment of perpetrators and attained State admission of responsibility and commitments to implement legal reforms in order to improve human rights protection and contribute to preventing violations from recurring.



Inter-American Court judgments Self-Enforceable in Guatemala

The end of 2009 marked an important step forward for justice in Guatemala, when the Criminal Chamber of the Supreme Court declared judgments of the Inter-American Court in three cases to be self-enforceable, meaning that judgments must be enforced. As a result of such decisions, domestic courts reopened investigations that had remained closed for years and ordered the arrest of suspects of gross human rights violations. Up until that time, Guatemalan courts had blatantly disregarded the judgments of the Inter-American Court, which had ordered the identification, prosecution and punishment of those responsible for human rights violations.

Ceremony in memory of persons disappeared for political reasons in Guatemala. In December 2009, the Guatemalan Supreme Court ruled that judgments of the Inter-American Court must be implemented immediately, thus making it possible to reopen previously closed investigations of human rights violations. Photo: CEJIL



Family members of the victims of human rights violations under the Fujimori Government and human rights defenders take part in a press conference during the trial in which the former President was convicted. Photo: CEJIL

An international judgment takes effect in Peru

On April 7, 2009, the Special Criminal Chamber of the Peruvian Supreme Court found former President Alberto Fujimori (1990-2000) guilty in four cases of human rights violation charges, including forced disappearances and extrajudicial execution in the Barrios Altos and La Cantuta cases, both of which were co-litigated before the Inter-American Court by CEJIL, Pro Human Rights Association (APRODEH) and the National Human Rights Coordinator. In a unanimous decision, the Supreme Court held that a prison term of 25 years, the maximum sentence allowed under Peruvian law, was warranted. This is due to the gravity and magnitude of the crimes, along with the defendant's position at the time the crimes were committed.

The trial was a landmark in the struggle against impunity in Peru and in the world, as it was the first time that a domestic court had found a democratically-elected head of State in Latin America guilty of crimes against humanity and extradited him to his country to face the charges. This case reflects the complementary nature between the Inter-American System —where the Court raises the profile of an investigation by overturning amnesty laws and ordering punishment of those responsible— and the domestic judicial system, which makes sure that justice is done.

“CEJIL has been key. Without this organization we would not have achieved anything. They won the conviction in my husband’s case (the forced disappearance case of Efraín Bámaca Velásquez v. Guatemala). It was incredible, a judgment of more than 100 pages, which is an extraordinary precedent in the struggle for human rights. CEJIL continues to be key in the struggles of all human rights organizations in the hemisphere. Thanks to CEJIL, the Inter-American Court of Human Rights issued the decision (of supervision of compliance and provisional measures) last year (admonishing the State to fulfill the judgment of 2000, particularly with regard to the appearance of Efraín Bámaca’s remains, which also keeps the provisional protection measures in place for a group of individuals linked to the case).”

*Jennifer Harbury,
wife of Efraín Bámaca*



Increased judicial protection for Bolivian women

In July 2008, the Bolivian State publically admitted international responsibility in the MZ case, in which domestic courts acquitted a rapist, refusing to admit evidence based on arbitrary and discriminatory grounds against women. Under the terms of the friendly settlement agreement, the reparation not only includes admission of responsibility but also a variety of efforts to raise awareness about gender violence among judicial officials, as well as setting up an agency to act with due diligence in preventing, investigating and punishing assault against women.

Combating impunity in Colombia

In November 2009, the Superior Court of Bogota found General Jaime Humberto Uscategui guilty of collaborating with paramilitary groups in the 1997 massacre of 49 people in the community of Mapiripan. Even though unlawful collaboration of Colombian armed forces with paramilitary groups has been widely documented, this was the first time that a high-ranking officer was convicted for such collaboration. CEJIL and the “Jose Alvear Restrepo” Lawyers’ Collective represented the families of the victims of the massacre of Mapiripan in the proceedings before the Inter-American System. In 2005, the Inter-American Court ordered the State to investigate and punish those responsible.



Hearing before the Inter-American Court of Human Rights on the case of Luis Alberto Cantoral Benavides v. Peru in December 2009. Photo: CEJIL

As a result of the Inter-American Court's judgment in the case of the La Rochela massacre, which took place in Colombia in 1989, three military officers and one former congressman have become the subject of an investigation since 2009 for collaborating to facilitate the crime. CEJIL litigated this case along with the "Jose Alvear Restrepo" Lawyers' Collective. The 2007 judgment ordered the State to diligently investigate the massacre, including possible involvement of high-level State officials in the crime.

Preserving the memory and seeking the truth in Brazil

At least 70 people were victims of murder or forced disappearances in Brazil in the early 1970's, during a string of military operations, in which the Brazilian dictatorship (1965-1986) eliminated the so-called Araguaia guerrilla forces. Many of the victims were tortured and then executed.

Despite efforts of the victims' families and law suits brought before domestic courts on their behalf, the State has refused to provide any information for more than 30 years on the whereabouts of those missing or to open any serious criminal investigation that would solve the crimes and determine who is responsible.

Due to the failure to implement the recommendations issued in its Merits Report, the IACHR brought the case before the Inter-American Court of Human Rights in March 2009.



CEJIL took part in a talk entitled "The right to truth and memory" on repealing the Brazilian Amnesty Law. The event was part of the World Social Forum held in Belem in the State of Para (Brazilian Amazon) on January 30, 2009. Photo: CEJIL

Obstacles to Truth, Justice and Reparation

In 2009, three cases questioning the prosecution in military tribunals of human rights violations committed by members of the Mexican Armed Forces were brought before the Inter-American Court and were co-litigated by CEJIL.

In Mexico, military, not civilian courts hear the cases to establish responsibility for gross human rights violations of military agents. This flies in the face of international human rights standards and has become one of the major obstacles in the quest for truth and the struggle against impunity in Mexico.

The number of complaints stemming from abuses committed by members of the military services filed with the National Human Rights Commission against the Secretariat of National Defense has increased six fold, from 182 complaints in 2006 to 1,230 complaints in 2008, according to a study conducted by the 'Miguel Agustín Pro Juárez' Center for Human Rights.

Two of the cases brought before the Inter-American Court involve indigenous women victims of sexual violence by members of the military forces in the State of Guerrero in 2002. In both cases CEJIL is co-petitioner

alongside the Tlachinollan Human Rights Center and the Independent Organization of Mixtec-Tlapanec Peoples.

The third matter pertains to the arbitrary detention and torture of environmentalists Rodolfo Montiel and Teodoro Cabrera, which took place in May 1999 in the community of Pizotla, also in the southeastern Mexican State of Guerrero. 40 soldiers fired on a house where members of an environmentalist organization were meeting. Montiel and Cabrera were arrested, held in solitary confinement and tortured repeatedly, until November 2001 when they were released, while the perpetrators of the attacks went unpunished.

The IACHR explained to the Court that "the case was emblematic of the abuses committed by the military forces deployed in the State of Guerrero and of the impunity for crimes committed by soldiers, mostly because it is the military system itself that investigates and prosecutes." CEJIL is litigating the case of the environmentalists together with the 'Miguel Agustín Pro Juárez' Center for Human Rights.

The agents of the State, who were implicated in the gross human rights violations, acted on behalf of the repressive regime and benefitted from the 1979 Amnesty Law, as a result of a political interpretation of the text, when the text of the law did not include them.

CEJIL also filed an amicus curiae brief with the Federal Supreme Court of Brazil, setting forth how international standards and legal precedent prohibit the application of amnesty laws in cases of gross human rights violations and crimes against humanity.

CEJIL has been advocating on behalf of the victims and their families, together with the Grupo Tortura Nunca Mais ['No More Torture Group'] and the Commission of Family Members of the Persons Killed and Disappeared for Political Reasons of Sao Paulo, since 1995.

“Our relationship with CEJIL is strategic. The organization has accumulated an understanding of the Inter-American System which has opened up channels for us and strengthened our capacity to engage and adequately monitor cases. In this sense, CEJIL has been an ally that accompanies us on our journey.

Some Venezuelan organizations have been litigating in the Inter-American System for many years now and CEJIL still accompanies us but not in an overprotective way.

They have been very respectful which is fundamental. Without CEJIL things would have been much harder for the organization. CEJIL has been an important facilitator and contributor to the success that we have had with the System.”

Carlos Correa,

Executive Director of the Venezuelan organization

Espacio Público



Representatives of indigenous human rights organizations, in the Mexican State of Guerrero, rallying in support of two women who were raped by members of the military. Photo:CEJIL





Protecting the protectors

HIGHLIGHTS OF THE PROGRAM TO EMPOWER HUMAN RIGHTS DEFENDERS AND KEY ACTORS

Human rights defenders, journalists, social movements and oversight institutions, such as ombudsmen, have played the crucial role of whistleblowers, protectors and monitors in democracies and have significantly contributed to the enjoyment of the rights of substantial segments of the population. In performing their duties, many of these people have been subjected to harassment, threats, criminal prosecution and attempts on their own lives, while the response from local authorities has been wholly inadequate.

CEJIL works hard to train, educate and support human rights defenders and other key stakeholders.

CEJIL takes concrete action in this regard by holding workshops and seminars, participating in academic events, preparing, editing and publishing guidebooks and educational materials, setting up and running a wide-ranging program of internships and fellowships, backing advocacy efforts and conducting research, among other activities.

In August 2008, CEJIL held a training workshop in Costa Rica for human rights defenders from Mexico and Central America on litigation before the Inter-American Court of Human Rights. The event included moot court hearings, visits to sessions of the Court and roundtable discussions with legal experts. Photo: CEJIL archives

“During my internship at the Washington D.C. CEJIL office, I gained insight into human rights violations which were different from the ones I was already familiar with and unquestionably made me a more competent professional. The experience also helped me to expand my knowledge of the human rights situation in countries other than Colombia and improved my political and social analysis ability, which is essential for successful litigation.”

Daniela Vergel.

Colombian attorney, expert in women’s sexual and reproductive rights defense

LEARNING OPPORTUNITIES

CEJIL’s Internship Program targets students and professionals who wish to gain practical experience in human rights to complement and enrich their academic and professional training. This program is intended to furnish the participants with wide-ranging and accurate knowledge on how the Inter-American Human Rights Promotion and Protection System works as well as on the human rights situation in the hemisphere. Applications for internships from human rights defenders are given a high priority by the organization in the admissions process.

CEJIL hosted interns in the legal, communications and administrative fields, who became actively engaged in the day-to-day business of the organization, such as case research for litigation, outreach and dissemination efforts, translations or administrative support. In 2008-2009, a total of 142 interns from 29 different nations worked with CEJIL at its offices in Washington D.C., San José, Rio de Janeiro and Buenos Aires.

Interns at the CEJIL Southern Cone and Bolivia Program Office in Buenos Aires present the results of the projects they worked on during their internship. Photo: CEJIL archives



"I began my legal internship at CEJIL in March 2009. This experience reinforced and expanded my legal knowledge of international principles, State practices and procedures before the Inter-American Commission and Court.

As an intern at CEJIL, I took part in several projects and realized that I'd like to base my professional development on indigenous communities as that is what appeals to me the most.

My internship at CEJIL provided me a place to learn, grow and make important decisions for my career. In exchange for what CEJIL has given me, I hope to continue to grow professionally in the field of human rights and make my contribution to achieving a hemisphere that is free of impunity and injustice."

*Ekaterina Porras Sivolobova,
intern in 2009 at the CEJIL Program Office for
the Southern Cone and Bolivia, Buenos Aires,
Argentina.*



SHARING EXPERIENCE

In 2008-2009 CEJIL organized some 56 seminars and workshops, which were attended by more than 1,400 human rights defenders, in 17 countries of the Americas. Additionally, CEJIL staff spoke at 31 academic and professional events featuring prestigious figures from the human rights world. Examples of such events are listed below:

Capacity-Building for Childhood Advocacy in the Americas

Child and teenage rights defenders from all over the Americas took part in a workshop on capacity building for political advocacy before the Organization of American States, held in Washington D.C in November 2009. The participants attended presentations, talks and sessions at the different OAS bodies. The event was organized by CEJIL, with the support of Save the Children and the Kellogg Foundation, and backing from the OAS Department of International Affairs.

Human Rights Defense Workshop in Huanuco, Peru

CEJIL and the organization Paz y Esperanza shared with human rights defenders the procedures to follow in documenting cases to be submitted to the Inter-American System. The workshop was held in September 2009 in Huanuco, 400 kilometers northeast of Lima..

Security for Human Rights Defenders in Honduras

The coup d'Etat in Honduras put the security of human rights defenders at risk. Consequently, in October 2009, CEJIL and the Committee of Relatives of the Detained-Disappeared in Honduras (COFADEH), with the backing of the Ebert Foundation, organized a workshop on protection measures in Tegucigalpa. Human rights defenders from Peru and Guatemala shared their experiences and solutions to security problems stemming from their work.

Access to Justice for Women Victims of Violence

With the support of UNIFEM, CEJIL organized the International Seminar "Access to Justice for Women Victims of Violence", in May 2009, in Buenos Aires. Attending the event were representatives of the State linked to the topic and members of non-governmental organizations from different Argentinean provinces.

Merida Initiative, Plan Colombia and Human Rights

In light of learning experiences gleaned in the context of Plan Colombia, CEJIL helped to create an exchange between Mexican, Colombian and US organizations on advocacy experiences for introducing a human rights agenda into the Merida Initiative, a project spearheaded by the United States to combat drug trafficking in Latin America.

Seminars and workshops

Some of the workshops organized by CEJIL in 2008-2009 addressed the following topics

- Precautionary Measures in the Inter-American System of Human Rights
- The Inter-American Court of Human Rights and the Dominican Republic: Challenges and Prospects
- Women's Rights in the Inter-American System
- Strategic Litigation
- Implementation of judgments in the Inter-American System
- Precautionary Measures and Human Rights Defenders
- Access to Justice for Women Victims of Violence. International Standards and a look at the facts on the ground
- Case Documentation and Submission of Initial Petitions to the Inter-American System
- Tools of the Inter-American System of Human Rights Promotion and Protection
- Discussion on the Draft Inter-American Convention against Racism and All forms of Discrimination and Intolerance
- Debate on the Limits and Possibilities of Revising Brazil's Amnesty Law
- The Role of Civil Society in Strengthening Justice: Sharing experiences Panama-Honduras
- Workshop on Case Documentation with Ombudsmen
- Discrimination, Right to Identity and the Inter-American System
- The Inter-American System and Human Rights in Colombia
- Refugee Protection within the Inter-American System

Federal States and the Optional Protocol to the Convention against Torture

Implementation issues in Federal States pertaining to the Optional Protocol to the Convention against Torture was the topic addressed at an international seminar organized by CEJIL in Buenos Aires in September 2008, together with the Association for the Prevention of Torture (APT) and the Ministries of Justice and Foreign Relations of Argentina. The attendees shared ideas on how to overcome the barriers that decentralized States face in fulfilling the international obligations established by the Protocol.

Training for Litigation before the Inter-American Court

In 2008, representatives of human rights organizations from Mexico and Central America participated in a regional training course on strategic litigation before the Inter-American Court of Human Rights at CEJIL's Offices in San José, Costa Rica. The participants attended hearings at the Court, a talk given by a psychologist specialized in working with victims of human rights violations and a Q&A session with a legal expert from the Court.

Documenting human rights violations against indigenous peoples

Representatives of Central American indigenous organizations learned about procedures to document human rights violations at training workshops held in Honduras, Nicaragua and Guatemala during 2008, with the support of Danish organization IBIS.

At the event, titled “Documenting cases of human rights violations against indigenous peoples: Sharing experiences” the attendees engaged in talks and practical exercises on how the Inter-American System works. Additionally, they discussed prior experiences, shared views on issues affecting their particular countries and compared strategies with individuals and organizations from other countries.

PROVIDING INFORMATION TO ALERT, DOCUMENT AND ACT

In 2008-2009, CEJIL joined its national counterparts in a total of 95 hearings and working meetings before the IACHR on situations taking place in 18 countries of the hemisphere.

The information brought to light at these hearings and meetings impacted all of the organization’s strategies and covered a broad range of topics, such as the rights of indigenous peoples in Ecuador and Argentina or histori-

cal obligations and impunity, represented by the hearing in the case of Monsignor Arnulfo Romero v. El Salvador. There were also sessions before the IACHR on children’s rights, in Paraguay and Guatemala, the protection of human rights defenders in Colombia, Guatemala and Honduras; freedom of expression in Venezuela and Argentina, the criminalization of peaceful protest in Brazil, Honduras and Venezuela and labor rights, prompted by complaints emanating from Brazil, Costa Rica and Honduras. The crime of forced disappearance was discussed with regards to Mexico and the rights of

From left to right: Alejandra Vicente, CEJIL attorney, Cecilia Garay, President of the Supreme Court of Huanuco, Germán Vargas, Executive Director of the Association Paz y Esperanza and Francisco Quintana, Deputy Program Director for the Andean, North America and Caribbean Region conducted a workshop on litigating before the Inter-American System, targeting human rights defenders in Huanuco, Peru. Photo: CEJIL archives



The training session given by CEJIL in September 2009 at the Offices of Paz y Esperanza in Huanuco, targeting our institution's national legal staff and judges and prosecutors from the region, made a significant difference. It clearly showed Huanuco's judges our commitment and expertise in seeking justice before domestic or international bodies as well as the ongoing need for human rights protection. The workshops clearly highlighted the strategies to follow for successfully bringing cases before international bodies. They also showed how to make use of legal precedents established by international courts as well as the reports of the Inter-American Commission on Human Rights, thereby expanding our knowledge of law in the international arena."

*German Vargas,
Executive Director of the Association Paz y
Esperanza, Peru*



persons deprived of liberty were addressed with regard to cases from Venezuela and Paraguay.

Joining forces with counterparts was vital to providing the IACHR with detailed, in-depth and accurate information. In some instances, it helped to develop the expertise and capacity of national organizations in the areas of advocacy and litigation. Engaging in joint efforts during

the hearings was also conducive to sharing ideas and proposals with a view to strengthening the workings of the bodies of the Inter-American System. These efforts also led to the coordination of training activities and the organization and dissemination of information generated by CEJIL and its partner organizations.

In 2009, Hólger Cisneros, Patricia Hualinga and Marlon Santi, leaders of the Sarayaku indigenous people, requested the IACHR to issue the Merits Report on the case against Ecuador for authorizing oil exploration on their ancestral lands. Appearing with them is attorney Mario Melo, from the Center for Economic and Social Studies (CDES). Photo:CEJIL



Examples of coordination with counterparts include presentations before the IACHR on the human rights situation in Honduras, in July and November 2009, and the presentation on spying and harassment of members of the “Jose Alvear Restrepo” Lawyers’ Collective of Colom-

bia in November 2009. As a result of investigation and documentation efforts carried out by CEJIL and its counterparts, key information came to light at these hearings on the true human rights situation on the ground in those countries.

CEJIL OBJECTIVES REFLECTED IN ITS ACTIONS

CEJIL moved closer to fulfilling its institutional objectives by holding a wide range of hearings that shed light on human rights violations committed or tolerated by State agents, by combating impunity, particularly in El Salvador, Honduras, Venezuela and Colombia, as well as contributing to narrowing the gap of inequality and exclusion, clearly reflected in the hearing on the right to education for persons with disabilities in the hemisphere.

The hearings seek to help strengthen democracy and oversight institutions, as was reflected at the hearings on the political situation in Honduras and Venezuela. CEJIL’s participation at such hearings also contributed to making the Inter-American System more effective and expanding access to its protection mechanisms by facilitating the presence of and providing an outlet for the needs and aspirations of hundreds of organizations and victims from all over the Americas.



In November 2009, Venezuelan human rights organizations and CEJIL spoke out before the IACHR against an increase in the violent repression of peaceful demonstrations. Participating at the hearing were Carlos Correa of Espacio Público, Marino Alvarado, of Provea and Ariela Peralta, Deputy Executive Director of CEJIL. Photo: CEJIL

THEMATIC HEARINGS BEFORE THE IACHR WITH CEJIL AND LOCAL PARTNER PARTICIPATION IN 2008-2009

March 2008

- Captive communities in Bolivia
- Indirect restrictions on freedom of expression in Brazil
- Enforcement of 2004 Migration Law in the Dominican Republic
- Complaints of arrests and torture at detention centers in Honduras
- Human rights situation of women in Chiapas, Mexico
- Criminalization of social protest in Guerrero, Mexico
- Follow-up on the IACHR visit to Oaxaca, Mexico
- Situation of the institutional framework and human rights guarantees in Venezuela

October 2008

- The Amnesty law as an obstacle to justice in Brazil
- Violence and discrimination against women stemming from the armed conflict in Colombia
- Situation of labor courts in El Salvador
- Assault on operators of justice in Guatemala
- Situation of human rights defenders in Guatemala
- Violations of economic, social and cultural rights of indigenous peoples and access to justice in Honduras and Nicaragua
- The impact of public security policy on human rights in Mexico



Human rights defenders from all over the hemisphere participated in the bi-annual meeting of the International Coalition of Organizations for Human Rights in the Americas, held at CEJIL's headquarters in Washington D.C. in October 2008. Photo: CEJIL

“CEJIL is indispensable. Working with CEJIL as a counterpart guarantees that the case will get to the Inter-American Commission on Human Rights, that it will be well advised, that the case will be monitored, that there is a clear strategy and, above all, that there will be trust among the petitioners. With CEJIL you come in well advised, you come in self-controlled, you come in embraced. That gives you a lot of self-confidence because the Inter-American System is the last book you can hang your hopes on to help the victims.”

Martha Figueroa.

President of the Women’s Collective of San Cristobal, in Chiapas, Mexico.



- Political rights and freedom of expression in Nicaragua
- Freedom of expression in Venezuela
- Institutional framework and the situation of human rights defenders in Venezuela
- Citizen security and violence in Venezuela

March 2009

- Alliances between politicians and paramilitary groups in Colombia
- Violations of the economic, social and cultural rights

of maquila workers

- Military justice and human rights in Mexico
- Prosecution of cases of gross human rights violations during the internal conflict in Peru
- Right to freedom of expression and the right to information in Venezuela
- Situation of human rights defenders in Venezuela
- Situation of economic, social and cultural rights in Venezuela
- Situation of the institutional framework and human rights guarantees in Venezuela



Executive Director Viviana Krsticevic (left), Marcia Aguiluz and Honduran judge Tirza Flores (middle) prepare a working meeting with the Director of the US Law Library of Congress on the coup d’état in Honduras. Photo: CEJIL

November 2009

- Human rights situation in Brazil
- Forced displacement in Colombia
- Rights of indigenous peoples in Ecuador
- Right to education of persons with disabilities in the Americas
- Right to freedom of expression and to information in Venezuela
- Democratic institutions, vigilante groups and jails in Venezuela
- Venezuelan International Aviation Enterprise (VIASA) Retirees
- Prosecution of peaceful protest in Venezuela



Women human rights defenders from Nicaragua hold group discussions during one of the sessions of the international seminar "Why the Life of Every Woman Counts" jointly sponsored by CEJIL in Managua, Nicaragua, in September 2008. Photo: CEJIL archives

Training and women's rights

Shedding light on abuses against women in the hemisphere is a priority for CEJIL. During 2008-2009, the organization conducted a variety of events on this topic, including the workshop "Women's Rights and the Inter-American System", during a working mission to Peru; the session "Access to justice in the Inter-American System and women's rights standards", in coordination with several Ecuadorean organizations in Quito; and the seminar titled "The Inter-American System and protection of women's rights", which drew a large crowd of human rights defenders in the city of Fortaleza, Brazil.

In May 2009, CEJIL held the seminar "Access to Justice for women victims of violence" in Buenos Aires, Argentina, with the support of UNIFEM, aimed at government officials and NGO's in the provinces of Argentina. In June 2009, the organization participated

in the meeting of experts titled "Discrimination against women in the sphere of economic, social and cultural rights," convened by the IACHR's Rapporteurship for Women's Rights.

Additionally, CEJIL requested and took part in several thematic hearings before the IACHR, which have helped to put issues of concern on the agenda of the Commission. At the hearing held in March 2008 under the title of "Femicide in El Salvador", the IACHR expressed its condemnation of the Government's passivity vis-à-vis the social reality faced by women. In response to the problem, El Salvador has pledged to open up a participatory dialogue with national organizations in order to find possible solutions.

Also during the March 2008 period of hearings, CEJIL, the Center for the Human Rights of the Women of

Chiapas and the 'Mercedes Olivera y Bustamante' Feminist Collective, brought to the attention of the IACHR the context of domestic violence, systematic discrimination and femicide characterizing the plight of women in the Mexican region of Chiapas.

The alarming degree of risk that women are subjected to in the midst of armed conflicts was also the subject of debate before the IACHR at the hearing "Discrimination and violence against women as a consequence of the armed conflict in Colombia." The hearing was the result of follow-up on the recommendations that had been made by the IACHR to the State of Colombia in its report "Violence and discrimination against women stemming from the armed conflict in Colombia".

Working to put human rights at the heart of institutions

HIGHLIGHTS OF THE PROGRAM TO STRENGTHEN THE INTER-AMERICAN SYSTEM

The Inter-American System must work vigorously and effectively towards protecting and promoting human rights, both in its ability to respond to victims and to critical human rights situations, as well as to contribute to reversing adverse conditions for human rights.

CEJIL's program for strengthening the Inter-American System involves advocating for greater transparency, broader dialogue and increased effectiveness in protecting human rights before the Organization of American States (OAS), the Inter-American Commission on Human Rights (IACHR), the Inter-American Court of Human Rights (I/A Court H.R.), Governments and civil society organizations.

This program seeks to shape the Inter-American System in the following areas:

1. Improved performance of the system's bodies
2. Greater autonomy, independence and legal authority for the IACHR and the Court
3. More effective coordination between national and international human rights protection mechanisms
4. Expansion of jurisprudence and the legal and institutional framework to enable the protection of fundamental rights
5. Increased coordination with universal protection and other regional protection systems



Human rights defenders reach a consensus on the items to be submitted to OAS Secretary General Jose Miguel Insulza, during the organization's General Assembly in San Pedro Sula, Honduras, in June 2009. Photo: CEJIL archives



:A fund is available in the Inter-American System to help defray the expenses of low income human rights violation victims. In 2009, the OAS Permanent Council approved the regulations on the operation of the Legal Assistance Fund, an initiative spearheaded by CEJIL since 2006. Photo: Juan Manuel Herrera/OAS

Bringing the Inter-American experience to Africa

CEJIL shared its litigation experience in the Inter-American System with African organizations. It particularly addressed cases of violations of women's rights, during the Strategy Conference for Women's Rights organized by Interights and held in Dar es Salaam, Tanzania in April 2008.

The conference sought to identify challenges and opportunities for litigation of human rights violations of women in Africa. CEJIL presented four case studies and took part in discussions with human rights defenders on the challenges faced by women's rights protection in the Americas. One of the main conclusions of the conference was the need to build strategic litigation capacity for women's human rights in Africa, by means of training, assistance and support.

6. Wider participation of civil society in OAS spaces that are important to human rights

CEJIL was instrumental in efforts to successfully create, by the end of 2009, new tools to facilitate access for all inhabitants of the hemisphere to international human rights protection in the Inter-American System. The organization helped to fuel the dialogue, analysis and ideas for the Inter-American System to reach out further to human rights violation victims, increase transparency in the system and promote full implementation of judgments and decisions. In order to achieve this, CEJIL submitted concrete reform proposals, some of which were written into the new rules of procedure of the protection bodies.

CEJIL's endeavors to strengthen the Inter-American System also took the shape of publications, which helped nurture the debate, seminars and workshops and active participation in discussions and key events. The organization also played a role in coordinating civil society participation in the Inter-American System before the political bodies as well as in litigation and human rights promotion.

Every six months, during the IACHR regular period of sessions in Washington D.C, CEJIL hosts meetings of the International Coalition of Organizations for Human Rights in the Americas and provides logistical support to enhance the effectiveness of the organizations in their dealings with the system.

Enhanced Role of Victims

On December 10, 2009, the new rules of procedure for the Inter-American Court and Commission were published, incorporating some of the proposed reforms that CEJIL had been advocating for years.

CEJIL issued several papers calling for simplifying and streamlining the processing of petitions submitted to the IACHR, empowering victims with greater autonomy in submitting cases to the Court, ensuring greater access to the Inter-American System by instituting the Legal Assistance Fund and placing restrictions on the use of ad hoc judges, among other reforms.

During the 2008 OAS General Assembly in Medellin and throughout the process of debating Inter-American System reform, CEJIL adamantly sought, and successfully achieved, the creation of dialogue opportunities between States, the bodies of the Inter-American System and civil society and, particularly, those who use the regional mechanism.

In late 2008, CEJIL issued a paper on "Contributions to Debate on Possible Reforms to the Function of the Inter-American Commission and Court of Human Rights." The publication reflects the organization's position in the debate on reform and advocates for an institutional and procedural restructuring of the oversight bodies, which meets the ultimate purpose of the Inter-American System: to provide effective protection to victims.



Family members of Panamanian union leader Heliodoro Portugal, the victim of forced disappearance in 1970, displaying a photograph of him, alongside Gisela de León and Soraya Long from CEJIL and expert witness Alicia Neuburger and Juan Pablo Albán (IACHR) following the case hearing before the Inter-American Court of Human Rights in January 2008. Photo: CEJIL archives

In response to the Court and Commission's call to provide input for drafting the new rules of procedure, CEJIL submitted written observations which provided an in-depth analysis of the debated topics, which are central to enhancing victim protection. In doing so, the organization

was guided by the ultimate goals of the Inter-American System to safeguard human rights and was mindful of the disadvantaged situation facing those who file suit against a State that has not provided an effective response to violations of fundamental rights in the domestic judicial system.

The process of amending the rules of procedure confirmed some of the protection bodies' regressive practices, clarified rules applying to a variety of situations not covered in the previous rules and redefined how litigation works before the Court. As a result of the process, the victims and the State now play a more prominent role, while the role of the IACHR has been confined to the general protection of Inter-American public order, as opposed to the defense of the rights of victims. The Inter-American System's ability to defend the rights of victims will largely be defined in the practices that are instituted under the new rules of procedure.

Ensuring victims' access to the Inter-American System: a legal aid fund

Victims of human rights violations are entitled to international legal reparations, whether or not they can afford it on their own. Nonetheless, the absence of a mechanism to cover the expenses involved in instituting an international proceeding in the Inter-American System is de facto economic-based discrimination against many victims. CEJIL conservatively estimates the total cost of litigating a relatively simple case in the Inter-American System to be around US \$50,000 without including attorney fees. As of 2006, CEJIL has therefore been proposing the creation of a Legal Assistance Fund for the Inter-American Human Rights System and published a position paper claiming a compelling need for it.

“Perhaps the reason CEJIL is so special is that it doesn’t just criticize the system’s weaknesses but also proposes and produces papers for discussion that help a great deal to guide the discussion for all of us who come together in the Inter-American System. It also takes the initiative on what should be changed. This systematic approach to following up on the issues is an essential contribution to strengthening the system.”

*Luz Marina Monzón,
Human rights defender in Colombia.*



In its position paper, CEJIL contended that “the Inter-American System is not making substantial efforts to keep access to the system from being denied to individuals who are particularly vulnerable to economic based discrimination; and it is certainly the duty of the system, as such, to address this problem. A legal assistance fund

would be a significant step toward eradication of this de facto discrimination.”

After years of attempting to move the idea forward, finally in 2008 the OAS General Assembly approved the creation of the Fund and, in November 2009, the OAS Permanent Council approved the rules of operation.



In April 2009, the Inter-American Court of Human Rights held session in the Dominican Republic where it heard the case of Kenneth Ney Anzualdo vs. Peru litigated by CEJIL and APRODEH Photo:CEJIL

The rules provide that the Fund shall be replenished by voluntary capital contributions of OAS member States, permanent observer States and any donors who wish to contribute. The Inter-American Court has already earmarked funds to pay into the newly created fund.

Increasing balance, equality and impartiality at the Court

Up until recently, respondent States could appoint a judge from their own country, called an ad hoc judge, to join the panel of judges hearing any case before the I/A Court H.R, where no member of the Court was of the same nationality as the respondent country. In November 2009, the Court restricted the appointment of ad hoc judges to interState litigation.

This was the Court's decision in issuing an Advisory Opinion at the request of Argentina in August 2008 inquiring about the appointment of ad hoc judges in non interState claims, the participation of sitting I/A Court judges of the same nationality as the respondent country in litigation before the Court and the right to an independent and impartial judge.

The new interpretation is a response to a complaint from civil society organizations and other users and key actors of the Inter-American System, who had contended that the appointment of ad hoc judges in individual cases undermines the principle of equality of arms, impartiality and judicial independence and the object and purpose of the Convention itself. CEJIL took part in a public hearing on this topic and submitted an amicus curiae brief titled: "La figura del juez ad hoc y la igualdad de armas en el proceso ante la Corte en casos originados en peticiones individuales" ["The ad hoc judge and equality of arms in proceedings before the Court when cases stem from individual petitions"].



From left to right José Pablo Baraybar from the Peruvian Team of Forensic Anthropology (EPAF), CEJIL attorneys Ariela Peralta and Alejandra Vicente, as well as Felix Anzualdo and Marly Arleny Anzualdo, father and sister of Kenneth Ney Anzualdo respectively. Photo: CEJIL archives

Feeling the presence of civil society: voice and contribution

CEJIL actively participated in the “Hemispheric Level Forum for Civil Society in preparation for the Fifth Summit of the Americas” in March 2009 in Washington D.C. This preparatory meeting was key to coordinating a space where the voice of civil society could be heard and have input into the draft declarations, both at the Fifth Summit of the Americas and the 39th OAS General Assembly: “Towards a Culture of Non-violence”, in San Pedro Sula, in June..

Creating a space for effective dialogue

CEJIL and other organizations that were determined to engage in the Fifth Summit of the Americas were successful in changing how civil society takes part at this event. As a result, human rights issues were presented in a more substantial fashion and the results of the preparatory events were incorporated into the Statements and discussions.

CEJIL Executive Director Viviana Krsticevic was appointed by the participants at the preparatory meetings to speak on the hemispheric human rights agenda during a formal dialogue between foreign relations ministers and stakeholders.

Opening the door to civil society at the OAS General Assembly

At the 38th OAS General Assembly held in June 2008 in Medellin, Colombia, CEJIL coordinated common positions with other civil society organizations on the reform to the Inter-American System’s rules of procedure. CEJIL also contributed to strengthening non-governmental organization participation at the OAS and participated in drafting the Inter-American Convention against Racism and All Forms of Discrimination and Intolerance.

In April 2009, CEJIL travelled to Honduras to prepare and coordinate with organizations for their participation at the 39th OAS General Assembly to be held in June of that year. At meetings in Tegucigalpa and San Pedro Sula, joint positions were reached and a Statement of more than 10 national organizations was drafted. The preparatory work was helpful for Honduran organizations to take the floor in the formal dialogue with the foreign ministers of the OAS member countries.

CEJIL and the International Coalition of Organizations for Human Rights in the Americas agreed on a draft parallel declaration and played a significant role in preparing presentations on core human rights issues for talks with Secretary General Jose Miguel Insulza and the ministers of foreign relations. In the context of the General Assembly, CEJIL also took part in the presentation of the report of the Central American Human Rights Monitoring Team.



During the Fifth Summit of the Americas, held in Trinidad and Tobago in May 2009, CEJIL helped to coordinate civil society organizations to further enrich discussion and get their proposals on the agenda.

Photo: CEJIL archives

Together with Honduran national organizations, a public forum called “Access to justice, violence and impunity” was held and the inclusion of human rights issues in the final General Assembly declaration was defended before the Honduran Ministry of Foreign Relations.

“International monitoring by international human rights bodies is key in the case of Peru. CEJIL’s expertise in dealing with the IACHR and I/A Court H.R facilitates our access to these venues. CEJIL’s work has contributed considerably to strengthening the system. As the users of the system, we can engage in dialogue with the commissioners and the OAS governing bodies to improve it. To us, CEJIL is a strategic ally and the results have always been positive. This is highly appreciated by the victims and their families, who ultimately are the people who benefit from the work that is done.”

Miguel Jugo,

*Director of Asociación Pro Derechos Humanos
(APRODEH)*



Forum for discussion on human rights in the South

In 2008-2009, CEJIL participated in plenary sessions of the meetings of Competent High-Level Authorities on Human Rights and Foreign Ministries of MERCOSUR and Associate States, which were hosted by different member States. The organization promoted dialogue between civil society and State representatives on the implementation of recommendations and judgments of the Inter-American System.

CEJIL also closely followed discussions on the reform of the structure of the Meeting of Competent High-Level Authorities on Human Rights and Foreign Ministries of MERCOSUR (RAADDHH) in the context of the newly created Institute of Public Human Rights Policy of MERCOSUR and the latest UNASUR Declaration of Quito expressing the intent to create a South American Council of Human Rights.



At the OAS General Assembly in San Pedro Sula, Honduras, in June 2009, human rights defender organizations of the Americas highlighted how the failure by States to comply with the judgments of the I/A Court H.R. undermines the Inter-American system. Photo:CEJIL



Information: a driver of change

HIGHLIGHTS OF THE INFORMATION MANAGEMENT AND COMMUNICATIONS PROGRAM

CEJIL systematically shares and disseminates the expertise and knowledge it has accumulated over the course of almost two decades by means of publications, press releases, forums, political advocacy, a new web site and video production. This program helps the organization's presence to be more widely felt in a variety of settings, facilitates analysis and discussion of human rights issues in the hemisphere and builds its partners' capacity to act.

By effectively managing and communicating information, CEJIL seeks to enrich the discussion on how to strengthen regional human rights protection. It processes and distributes information and authoritative opinions that are relevant for an active engagement in the Inter-American Human Rights Promotion and Protection System and the use of the tools provided by the system. CEJIL also endeavors to create spaces for discussion and thought in a variety of social and political settings, as well as raise awareness in the media and the general public about the functions and significance of the Inter-American System and international human rights law.

CEJIL generated 20 publications containing information on the latest developments in doctrine, jurisprudence, and legal debate, as well as proposals to strengthen the Inter-American System. Photo: CEJIL archives

New Web site

CEJIL recently launched its new web site (www.cejil.org), which makes legal precedent, legal instruments, papers and information on the latest developments in the field of human rights in the Americas, as well as tools and activities of the Inter-American System, available to the public.

The site is designed for both the general public as well as specialized users and is intended to reflect CEJIL's everyday work, as well as facilitate the job of human rights defenders by providing easy access to the Inter-American System.

The site will include a data base listing all Inter-American Court judgments and will provide a link to all rulings pertaining to each case, as well as a catalogue of international human rights-related legal instruments. Additionally, users can gain access through the site to all CEJIL publications, press releases, a sampling of cases litigated by CEJIL as well as information on the organization and its programs.

The organization also supports its efforts by engaging in research. In 2008-2009, CEJIL focused on topics such as due diligence in investigating gross human rights violations, the effectiveness of the Inter-American System and the importance of implementing the decisions of regional oversight bodies.

During this period, CEJIL produced a large number of reports, position papers, documentaries, books, journals and gazettes. The organization addressed a wide variety of issues and challenges faced by the legal community in the field of human rights, which range from the practice of torture to a woman's right to a life free of violence.



The screenshot shows the CEJIL website interface. At the top, there is a navigation bar with the text "Estrategias | CEJIL" and a search bar labeled "BUSCAR". Below this, a header section features the CEJIL logo and a colorful graphic of gears and human figures. A red navigation menu contains the following items: INICIO, CEJIL, ESTRATEGIAS, CASOS, HERRAMIENTAS, and CONTACTO. Below the menu, there are three sub-sections: "Litigio en el Sistema Interamericano", "Fortalecimiento de defensores/as", and "Fortalecimiento del Sistema Interamericano". The main content area is titled "Estrategias" and contains three articles with accompanying images. The first article is about "litigio en el sistema interamericano", the second is about "fortalecimiento de defensores y defensoras", and the third is about "Litigio" with a sub-section titled "Masacre de La Cantuta/Perú". The website footer includes the word "Terminado" and a logo for "Defensores/as".

Advocacy through outreach

Disseminating CEJIL's activities, information and positions is key to supporting the organization's advocacy efforts, shedding light on the plight of victims of human rights violations and keeping partner organizations and other interested people up to date on gains and setbacks.

CEJIL has been successful at getting a growing number of traditional and alternative media to report its position on human rights issues in the national and regional arena. In 2008-2009, our staff issued 152 press releases taking a clear stand on human rights-related topics. These releases together with CEJIL's efforts generally have a considerable impact. Over this two year period, CEJIL appeared in the media in the Americas and the rest of the world over 600 times.

This coverage has made it possible for CEJIL to raise the profile of far-reaching issues. In 2008-2009, for example, leading Mexican print media published dozens of articles citing the organization's view on the topic of military jurisdiction and the practice of torture. Dissemination serves a dual purpose: on the one hand, of informing public opinion and, on the other, of urging States to fulfill their international commitments. Additionally, CEJIL has rapidly coordinated responses to critical events by issuing releases or sending open letters to Government representatives.



Colombian channel Caracol Television interviews Viviana Krsticevic, Executive Director of CEJIL Photo: CEJIL



BBC correspondent in Washington D.C. Carlos Chirinos, interviews CEJIL attorney Alejandra Vicente, and Deputy Director Ariela Peralta, on the situation facing indigenous communities in the Americas. Photo: CEJIL

CEJIL PUBLICATIONS

BOOKS

- Implementation of the Inter-American Human Rights System's Decisions. Contributions to the Legislative Process.
- Human Rights in the Inter-American System. Compilation of Instruments. 2009 Edition.
- Torture in International Law. A Guide to Jurisprudence and the Spanish version: la tortura en el derecho internacional. Guía de jurisprudencia. Book published jointly with the Association for the Prevention of Torture (APT).
- Tools for Human Rights' Protection. Briefs of Case Law. Equality and Non-Discrimination.
- Implementação das decisões do Sistema Interamericano de Direitos Humanos. Jurisprudência, instrumentos normativos e experiências nacionais. Translation of the book in Spanish published in 2007 [Implementation of the Decisions of the Inter-American Human Rights System. Legal precedent, legal instruments and national experiences].

GAZETTES

- Gazette No. 28: The Outstanding Debt to Justice and the Truth about Serious Violations of Human Rights and Crimes Against Humanity in the Americas.

- Gazette No. 29: Persons deprived of liberty in the Americas
- Gazette No. 30: The Right of Women to Live a Life Free of Violence.
- Gazette No. 31: The Protection of Refugees and Internally Displaced Persons in the Americas
- Gazette No. 32: Forced Disappearance of Persons in the Inter-American Human Rights Protection System

JOURNALS

- CEJIL Journal Year III, No. 4. Discussions on Human Rights and the Inter-American System
- CEJIL Journal Year IV, No. 5. Discussions on Human Rights and the Inter-American System

OTHER PUBLICATIONS

- 2006-2007 Biennial Activities Report
- Position Paper No. 5: Contributions to the Debate on Possible Reforms to the Function of the Commission and the Inter-American Court on Human Rights
- Legal precedents on CD-ROM. The CEJIL Brazil program produced a CD-ROM with Inter-American System jurisprudence pertaining to the obligation to investigate, prosecute and punish human rights violations. It was distributed for use at training courses for administrators of justice and human rights defenders.



Front cover of an issue of the Gazette. The editorial for this issue focuses on the protection of refugees and internally displaced people in the Americas. Photo:CEJIL

CEJIL DOCUMENTARIES: PROMOTING TRANSFORMATION THROUGH IMAGES

Cuerpo a tierra. Los niños soldados de Paraguay [‘Hit the Dirt. Child Soldiers of Paraguay’]

A 50-minute documentary film exposing the abuses and irregularities behind the forced recruitment of children to serve in the Paraguayan army. Produced jointly by CEJIL and the Servicio Paz y Justicia-Paraguay, the film decries this troubling practice using three flagship cases brought before the Inter-American System. The documentary is required to be shown at Paraguay’s main military training academy, as part of a friendly settlement with the Paraguayan State in the case of the children Marcelino Gomez Paredes and Christian Ariel Nunez.

A todo pulmón [‘At the top of their lungs’]

A 35-minute documentary film describing the plight of native Miskito lobster divers on the Caribbean coast of Honduras and Nicaragua. As a result of the limited sources of income available to them, many Miskito men make a living by diving for lobsters in deep waters. Thousands of them are afflicted with decompression sickness and other illnesses stemming from inadequate equipment and dangerous working conditions. The State’s failure to provide medical facilities in these remote areas is tantamount to a violation of the Miskitos’ right to health and the

State’s disregard for its obligation to monitor working conditions. The purpose of the documentary is to expose the critical situation of these indigenous people. Additionally, this video was submitted to the IACHR as evidence in the case of Opario Lemoth et al v. Honduras, which addresses the plight of the lobster divers on the Caribbean coast of Honduras.



Honduras

CEJIL'S RESPONSE TO THE COUP D'ETAT IN HONDURAS

In light of its historical importance and implications for democracy and human rights, the coup d'Etat in Honduras on June 28, 2009 warrants special attention. Efforts to build rule of law, a framework of democratic institutions and respect for human rights in the Americas were set back decades as a result of this event. The de facto Government promptly ordered the suspension of constitutional guarantees, censoring critical media and suppressing peaceful opposition demonstrations with excessive and brutal use of force.

The institutions that were supposed to act as checks and balances caved into the perpetrators of the coup. Those whose job it was to protect human rights ignored the complaints that were being leveled. The Constitutional Court, the Office of the Public Prosecutor, the Legislative Branch of Government and even the National Commissioner of Human Rights denied there were any violations being committed. They tolerated the actions taken by the de facto Government and the public security forces, and were ineffective at ensuring human rights protection and avoiding repeated abuses and impunity.

Members of the Honduran military forces beat demonstrators during a peaceful protest against the coup d'Etat in Tegucigalpa. On the day of the coup, Sunday June 28, CEJIL began to work with Honduran organizations to protect human rights and speak out to the international community against the abuses taking place. Photo: N/A

Moreover, any media that broadcast news criticizing the coup, such as Radio Progreso, Canal 36, Radio la Catracha, Radio Globo and Cholusat Sur Radio, among others, were harassed, censored and had their recording and broadcast equipment seized.

In this context, on Sunday June 28, CEJIL undertook a range of activities. The organization documented human rights violations and supported and worked together with local organizations to protect the rights that were at risk. It endeavored to find out on the ground what the positions of the different actors in the conflict were. It filed a request for precautionary measures from the IACHR, issued alerts, held training workshops for human rights defenders, organized debate forums, advocated for the restoration of constitutional order, informed, denounced and advocated before the Inter-American System and the international community.

The day of the coup, CEJIL issued a joint Statement signed by another 70 civil society organizations, from 17 countries, condemning the disruption of the constitutional order and asking the IACHR to adopt precautionary measures to protect the physical integrity of those who were being persecuted by the de facto Government. From July 17 to 26, CEJIL was part of the mission of the International Observatory on the Human Rights Situation in Honduras (OISDHHN), made up of 17 organizations from the Americas and Europe. It conducted on-the-ground verification of gross human rights violations, such as the deaths of demonstrators opposed to the coup, the excessive



Demonstrators in the streets of Tegucigalpa peacefully protest against the deployment of military tanks as a result of the Coup d'Etat in Honduras Photo: N/A

and unwarranted use of force against peaceful protesters, arbitrary detentions, and the harassment and censorship of the media. On August 7, the OISDHHN presented its report at a special hearing of the IACHR in Washington D.C., alongside the Committee of Relatives of the Detained-Disappeared in Honduras (COFADEH) and the Center for Research and Promotion of Human Rights (CIPRODEH).

On November 3, CEJIL and the Committee of Relatives of the Detained-Disappeared in Honduras (COFADEH) also reported to the Inter-American Commission on Human Rights that nine anti-coup demonstrators had died as a result of police and military repression while, as of the end of December, 14 members of organizations opposing the coup had died in suspicious circumstances, raising concern that people were being selectively targeted for murder. As of December, 3,000 arbitrary arrests had been documented and many of those arrested were juveniles. At least 120 people were prosecuted for the crimes of sedition, illegal demonstration, robbery, destruction of property and terrorism.

Documenting, denouncing, advocating...

Between July and November, CEJIL made five visits to Honduras, either on its own or as a member of OISDHHN. CEJIL also supported local organizations in submitting information to the IACHR, provided personal security training to human rights defenders and participated in monitoring the human rights situation during the electoral campaign.

As a result of its widely-felt presence in many circles of the Inter-American System, the contacts it has built up over time and its experience in the field of human rights, CEJIL played an important role in the effort to advocate before international organizations and governments of the hemisphere regarding the human rights situation that was unfolding in Honduras. It provided data to the IACHR, which was useful for gauging the true dimensions of the Honduran crisis, and it contacted specialized rapporteurs and UN bodies to provide them with relevant information.

Along with US civil society organizations, such as the Washington Office on Latin America (WOLA) or the Open Society Institute, it coordinated efforts in the Washington D.C. area to provide technical legal opinions to decision-makers from Congress and Government. CEJIL participated in a meeting with the Director of the Legal Library of Congress to clarify why one of its reports defending the legality of the coup d'Etat was mistaken.



Members of the International Observatory on the Human Rights Situation in Honduras listen to the testimony of human rights leaders, who were the target of abuses during the coup d'Etat. Photo: CEJIL archives

EFFECTIVELY PROVIDING PROTECTION FROM THE THREATS RESULTING FROM THE COUP

On the first day of the coup on Sunday June 28, CEJIL's legal staff filed requests for precautionary measures with the IACHR for individuals and organizations who were in imminent danger. CEJIL filed a total of eight briefs requesting precautionary measures benefitting 69 individuals and organizations, including officials of Manuel Zelaya's government, anti-coup leaders of political organizations, union leaders, educators, environmentalists, journalists, judicial officers, peasants, human rights defenders and community leaders. The IACHR granted most of the requests for precautionary measures. One of the most notable achievements was the order issued by the IACHR to the Congress and Judiciary of Honduras to return the recording and broadcasting equipment seized from Canal 36, Radio La Catracha, Choluteca Sur Radio and Radio Globo, in order to ensure the right to freedom of expression and information of journalists and of Honduran society generally.

Asserting human rights, by all means

CEJIL engaged intensely in efforts to obtain and disseminate verifiable, credible and rigorous data on the magnitude of the human rights violations to provide an international outlet and voice to human rights defenders and shed light on the detainees and victims. It organized seven press conferences in San Jose and Washington on the coup in Honduras, issued 30 press releases and was mentioned more than 150 times in print media, mainly in Latin America and Europe, as well as on radio and television, ranging from the BBC and Voice of America, to TeleSur or Radio Progreso of Honduras.

On October 22, 2009, the online version of Forbes magazine published an opinion piece, signed by Executive Director Vivian Krsticevic and CEJIL Board of Directors member Juan Mendez, on the mistakes made by the Law Library of Congress in its report on Honduras. The Law Library's paper denied that the violent removal from office of President Manuel Zelaya was a coup d'Etat and erroneously believed that the removal was a constitutionally established power.

The studios of Channel 36 were overtaken by the military and the channel was taken off the air to prevent it from broadcasting information opposing the coup. Photo: CEJIL



“The denunciations and information that CEJIL disseminated internationally were very important to protect human rights defenders in Honduras. Pro-coup authorities would have acted even more brutality had they not known that they were being internationally observed. If this international monitoring hadn’t existed we would be mourning over more deaths and human rights violations.”

*Sarah Aguilar,
Member of the Lawyers Resistance Front and
the Broad Movement for Dignity and Justice
(Movimiento Amplio por la Dignidad y la
Justicia)*



A packed auditorium heard Nobel Peace Prize Laureate, Guatemalan Rigoberta Menchu, Honduran priest Ismael Moreno and Nicaraguan historian and politician Dora Maria Tellez discuss the regional impact of the coup in Honduras, at a forum in San Jose, sponsored by CEJIL and the University of Costa Rica. Photo: CEJIL archives



Partial list of cases litigated by CEJIL in 2008 and 2009

In 2008-2009, CEJIL and co-petitioners worked on 223 cases and requests for protection measures before the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (I/A Court H.R.). The partial list below illustrates the type of cases that CEJIL litigates and provides a synopsis of some of them at different stages of the process. By no means is the list exhaustive, nor does it represent CEJIL's complete catalogue of cases, themes and priority areas. We are deeply committed to all the victims, communities and organizations with whom we work and this listing is only intended to provide examples of the range of cases taken on by the institution.

The list of 2008-2009 cases is divided into four categories: (1) New Cases (2) Precautionary and Provisional Measures (3) Cases Currently Being Litigated and (4) Cases in the judgment Implementation Phase.

NEW CASES

LUÍZ JOSÉ DA CUNHA V. BRAZIL

Luiz José da Cunha was a leader of Ação Libertadora Nacional ('National Liberation Action'), which fought against the military dictatorship in power in Brazil from 1964 to 1985. In 1973, da Cunha was arrested, tortured and murdered by Government agents. His body was buried in a clandestine grave, where he remained unidentified until 2006. The investigation into his death was closed on the grounds that the statute of limitations had lapsed and Brazil's Amnesty Law would preclude any prosecution. CEJIL, the Fundação Interamericana de Defesa dos Direitos Humanos (Inter-American Foundation for the Defense of Human Rights), the Santo Dias Center for Human Rights of the Archdiocese of Sao Paulo and the Movimento Tortura Nunca Mais (Torture Never Again Movement) of Pernambuco, filed a petition with the IACHR in July 2009. This case was an attempt to reopen the investigation into crimes committed during the military regime.

VLADIMIR HERZOG V. BRAZIL

In 1975, Army intelligence and Civilian Police officers arbitrarily detained, tortured and killed journalist and university professor Vladimir Herzog in Sao Paulo, during the Brazilian military dictatorship. His death, which was first reported as a suicide, helped to raise awareness in civil society of the practice of torture that was being used at the time against political prisoners in Brazil. The investigation into his death was closed

as a result of the 1979 Brazilian Amnesty Law. CEJIL, the Fundação Interamericana de Defesa dos Direitos Humanos, the Santo Dias Center for Human Rights of the Archdiocese of Sao Paulo and the Torture Never Again Movement of Sao Paulo, filed a petition with the IACHR in July 2009. This is one of several cases that have been pursued by CEJIL to bring to light the State's obligations for crimes committed during the military dictatorship. It is also an opportunity to examine issues such as the prosecution of common crimes in military courts and the use of devices such as amnesty, the statute of limitations and "res judicata" as obstacles to criminal prosecution of gross human rights violations.

LEMÚN V. CHILE CASE

In November 2002, a group of Mapuches from the Montutui Mapu indigenous community peacefully occupied Santa Elisa forestlands, located in the Ninth Region of Chile, in an effort to recover their ancestral lands. Members of the rural police force, known as Carabineros, converged on the site to verify the occupation, dispersed the group with tear gas, rubber bullets and, in the end, with 12 caliber rounds of lead ammunition. Alex Demundo Lemun Saavedra, a 17-year-old student, was shot in the forehead and died five days later at a hospital in Temuco. A military court acquitted the officer who shot him. The case sheds light on the violent practices of public security forces in suppressing demonstrations of the Mapuche people to reclaim their ancestral territory. It also exposes the military courts' failure to abide by international legal

standards. In April 2006, Eugenia del Carmen Calquin Morales and Manuel Arturo Coña Pirul filed a complaint before the IACHR. In September 2009, CEJIL joined the team providing legal representation and brought the case to the attention of the IACHR.

WOMEN OF ATENCO (MARIANA SELVAS GÓMEZ ET AL V. MEXICO)

Federal, State and municipal police officers raided the town of San Salvador Atenco in May 2006 assaulting and arresting demonstrators in an operation characterized by an indiscriminate and excessive use of force by public authorities. During the operation, State agents arbitrarily arrested hundreds of people and assaulted many others by using disproportionate force. Twenty six of the 47 women who were arrested reported having been victims of sexual assaults. CEJIL and the Miguel Agustín Pro Juárez Center for Human Rights (PRODH Center) filed a petition with the IACHR in April 2008 on behalf of 11 of the victims of sexual assault. The case epitomizes the violence perpetrated by some members of the security forces against women and the use of rape as a form of torture.

PRECAUTIONARY AND PROVISIONAL MEASURES

“JOSÉ ALVEAR RESTREPO” LAWYERS’ COLLECTIVE (PRECAUTIONARY MEASURES, COLOMBIA)

The Administrative Department of Security (DAS), the intelligence agency of the Colombian Government,

conducted illegal surveillance operations on human rights defenders, journalists, Colombian Supreme Court justices and opposition political leaders. An ongoing criminal investigation has implicated former DAS Directors. Additionally, some of the most questionable information stems from aggressive and systematic intelligence operations, targeting human rights defenders and their families. One of the targets of this operation, known as ‘Transmillennium,’ was an organization that has partnered with CEJIL for many years: the “Jose Alvear Restrepo” Lawyers’ Collective (CAJAR). CEJIL is co-petitioner with CAJAR in requesting precautionary measures for the organization. During 2008 and 2009 progress was made with regards to the implementation of measures.

CONSULTANCY ON HUMAN RIGHTS AND DISPLACEMENT (PRECAUTIONARY MEASURES, COLOMBIA)

In August 2009, CEJIL asked the IACHR to adopt precautionary measures for three members of the Consultaría para los Derechos Humanos y el Desplazamiento (CODHES) or Consultancy on Human Rights and Displacement, as well as for the organization as a whole. CODHES is a point organization in Colombia on the subject of forced displacement and defense of the rights of displaced persons and has been the victim of serious threats and stigmatization as a result of its efforts to promote human rights. In November 2009, the IACHR granted precautionary measures to CODHES and asked the State to ensure the life and physical integrity of the three beneficiaries, as well as to provide physical

protection to the organization’s main office. The context of persecution and stigmatization to which human rights defenders in Colombia are subjected weighed heavily in the IACHR decision. In granting the measures, the IACDH also ordered that CODHES be given access to the information in intelligence dossiers in possession of the State, which represents a firm and decisive step toward protecting defenders who are illegally monitored and harassed by the Administrative Department of Security (DAS) and other State security agencies. The precautionary measures granted to CODHES represent a landmark in the Inter-American System’s response to illegal wiretaps by the DAS.

ENVIRONMENTALIST DEFENDERS (PRECAUTIONARY MEASURES, COSTA RICA)

On May 25, 2009, CEJIL and the Center for Environmental Law and Natural Resources (CEDARENA) requested precautionary measures from the IACHR for environmental defender and union leader Aquiles Rivera, who has been speaking out against the damage caused by logging companies to his community in the Canton of Buenos Aires since 1996. As a result of several complaints filed against a company, Mr. Rivera has been the target of death threats. The State acted on its own accord and relocated Mr. Rivera to another community. However, that measure takes him far away from the area where he defends environmental and human rights. It therefore prevents him from performing his job and does not safeguard his right to life and right to free association.

OPPONENTS OF THE COUP D'ÉTAT (PRECAUTIONARY MEASURES, HONDURAS)

As of June 28, 2009, the day of the coup against President Manuel Zelaya, the de facto authorities began to use highly repressive methods: arbitrary detentions, excessive use of force against human rights defenders, opposition leaders and anti-coup demonstrators, union members, the media, journalists, political leaders and officials of the constitutional Government. CEJIL and a group of Honduran organizations submitted requests for dozens of precautionary measures to protect individuals who were being persecuted or were already detained, as well as to ensure that information about the coup and its consequences could be disseminated without restriction. Joining CEJIL in requesting the measures were the Committee of Relatives of the Detained-Disappeared in Honduras (COFADEH), the Committee for the Defense of Human Rights in Honduras (CODEH), the Center for Research and Promotion of Human Rights (CIPRODEH), the Jesuit Ministries' Team of Reflection, Research and Communication (ERIC), and other non-governmental organizations.

The IACHR granted measures, which were gradually expanded to safeguard the lives and safety of individuals, as well as for "... the workers of Canal 36, Radio La Catracha, and Choluta Sur Radio and Radio Globo in order to request restoration of the exercise of freedom of expression by reopening the aforementioned media and returning their broadcast equipment in order to guarantee their right to freedom of expression and that of

Honduran society." As a result of these measures, the broadcasters' equipment was returned, but their signals continue to be jammed.

HUMAN RIGHTS DEFENDERS IN THE STATE OF GUERRERO (PROVISIONAL MEASURES, MEXICO)

After the Tlachinollan Center for Human Rights, the Me'phaa Tlapaneco Indigenous Peoples Organization (OPIM) and CEJIL filed a request, the IACHR asked the I/A Court H.R. to grant provisional measures for human rights defenders and persons linked to the case of Ines Fernandez Ortega et al v. Mexico, which the Court would later hear about. The Court granted these measures in April 2009. The 107 beneficiaries had been victims of intimidation, monitoring, threats and defamation of character by State officials. Before the measures were ordered, a person was murdered and two others disappeared and executed. The beneficiaries included human rights defenders from the State of Guerrero.

Because of the dangers facing human rights defenders face in Mexico, particularly in Guerrero, the Court warranted provisional measures and immediate protection for this group.

EMILDO BUENO (PRECAUTIONARY MEASURES, DOMINICAN REPUBLIC)

Emildo Bueno Oguís, the son of Haitian immigrants, was born, raised and educated in the Dominican Republic. He has had Dominican identity papers and passport since the time he reached legal age. In 2008, when he was 33 years

old, he married an American citizen and tried to apply for residency in the United States. In order to fulfill the requirements for US citizenship, he requested a copy of his birth certificate but the Central Electoral Board refused to issue one to him under a 2007 directive, which instructed the office to refrain from processing requests for birth certificates, which have presumably been issued irregularly, to individuals with "foreign parents." Under this directive, it became Dominican State policy to deny citizens of Haitian background the right to Dominican nationality. Emildo Bueno and his cousin, Giselle Baret, reported the case to the media and the Dominican judiciary. Consequently, Giselle Baret was abducted, assaulted and threatened so she and Emildo would withdraw their complaints. In light of this situation, in July 2008, CEJIL and Open Society Institute (OSI) filed a request with the IACHR for precautionary measures seeking protection for the lives and safety of Emildo and his relatives. Emildo secured a US visa and was able to reunite with his wife in that country. After conferring with the beneficiaries, CEJIL and OSI requested that the measures be lifted in August 2009.

CASES CURRENTLY BEING LITIGATED

GUERRILLA DE ARAGUAIA V. BRAZIL

As a result of several operations conducted by Brazil's Armed Forces in the early 1970's, a group that attempted to rebel against the Brazilian military dictatorship was exterminated. At least 70 individuals disappeared as a consequence of the Brazilian Army offensive against

the so-called Guerrilla de Araguaia, in the State of Para. Many victims were tortured and executed. State agents who were implicated in the crimes benefited from the 1979 Amnesty Law. For more than 30 years, the State has refused to provide information on the fate of the victims, despite legal actions being brought by the next of kin of the victims. CEJIL has been litigating the case since 1995 when it submitted a petition to the IACHR, in collaboration with the Group 'No More Torture' of Rio de Janeiro and the Commission of Relatives of Those Who Died and Disappeared for Political Reasons of Sao Paolo.

In 2008, the IACHR issued the Merits Report finding that the State of Brazil arbitrarily detained, tortured and executed the members of the group. No efforts were made to investigate and punish the perpetrators, next of kin were not given access to information on the crimes and the remains were not returned to them. In 2009, the IACHR brought the case before the I/A Court H.R, as it found Brazil had not fulfilled the recommendations. This is the only case before the Court dealing with State responsibility for crimes committed during the Brazilian military dictatorship (1964-1985).

GABRIEL SALES PIMENTA V. BRAZIL

Gabriel Sales Pimenta was a well-known human rights attorney in the Brazilian State of Para, who defended 158 families against eviction from land that they had been occupying in the municipality of Maraba. In 1982, two men, allegedly hired by powerful landowners, shot and killed the attorney. The criminal proceedings against

the suspects took more than 20 years and no conviction was ever handed down. CEJIL and the Pastoral Land Commission submitted a petition to the IACHR in November 2006, which was admitted in October 2008. The IACHR found that the State had failed to prevent the murder of the alleged victim, despite the publicly made complaints, the climate of insecurity and the history of violence in the region of Pau Seco. The case is illustrative of the murders of rural workers in the Brazilian Amazon region and of those who support them, as well as the impunity surrounding these crimes. The State offered a friendly settlement to the petitioners, which is currently in the negotiation stage.

FAZENDA UBÁ V. BRAZIL

This case involves charges for the murder of eight rural workers on a farm in the municipality of São João do Araguaia in southern Para, in two separate massacres on June 13 and 18, 1985. In 2006, the farm owner was convicted, but is still free on while the appeal is being heard. Another defendant has since died and two other ones are fugitives from justice. Once again, this case exposes the impunity surrounding crimes against rural workers in Brazil, particularly the leniency and failure of the authorities to meet their obligation to investigate, prosecute and sanction human rights violations.

In 2008, CEJIL presented this case at a hearing before the IACHR, setting forth legal arguments and showing video-recorded testimony of the victims' widows and mothers and survivors of the massacre. During the hearing,

the State expressed its interest in entering into a friendly settlement proceeding and, at that time, both sides began to engage in negotiations to meet the demands of the victims.

PALACE OF JUSTICE V. COLOMBIA

The operation to retake the Palace of Justice by the Colombian Army on November 6, 1985, is an example of excessive use of force by the State. On that day, members of the M-19 guerrilla group took the Palace by force to protest what they perceived as the Government's failure to abide by the agreement to a cease-fire and to hold talks. The State response to the situation was chaotic and violent. Members of the Army and Police conducted an operation to retake the Palace, lasting 27 hours and including the use of heavy artillery. Approximately 100 of the nearly 300 hostages being held died in the assault of the Government security forces, including the Chief Justice of the Supreme Court and many other judges. Additionally, 10 civilians and a woman allegedly belonging to M-19, who was wounded, were arrested by the Armed Forces and became the victims of forced disappearance. Many other people were arrested, tortured and subsequently released. Information on the case was first submitted to the IACHR in 1991 by the families of the disappeared. In 2000, CEJIL joined the team providing legal representation in the case comprised of the Jose Alvear Restrepo Lawyers' Collective and the Commission for Justice and Peace. CEJIL and its co-petitioners submitted briefs on admissibility and the merits of the matter in

2008. The submissions included more than 5,000 pages of local files, court judgments, press articles and videos, all the product of an ongoing criminal investigation and an inquiry of the Truth Commission, which was made up of three former chief justices of the Supreme Court.

MANUEL CEPEDA VARGAS V. COLOMBIA

In 1996, the IACHR reported that every two days a member of the Patriotic Union (UP) party was murdered. The case of Senator Manuel Cepeda epitomizes the wave of political assassinations of members of UP that took place in the 1980's and 90's. Prior to his death, Manuel Cepeda wrote articles on the extermination of UP and Colombian Communist Party (PCC) members and charged high-ranking military officers of being involved in organizing paramilitary groups. Because of the repeated threats made by paramilitary groups against the lives of Cepeda and other UP members, the IACHR granted precautionary measures for their protection. The death threats against Cepeda were publicly known. In 1994, several men, including members of the military forces, shot him to death while he was on his way to Congress. Cepeda's son Ivan had to leave Colombia for extended periods of time for security reasons, as he pressed forward to find and bring to justice his father's assassins. Two low-ranking military members, who participated in the assassination, were sentenced to prison terms and are currently out of jail on probation. The military officers who planned the crime have not been investigated. Despite solid evidence of the involvement of members of the paramilitary forces, none of the

leaders of these groups has been convicted. In 2009, the case was sent to the I/A Court H.R.

GM V. COLOMBIA

In 2002, a 13 year-old girl, displaced by the war, was raped several times by an adult in the squatters' camp where she lived in Cartagena. As a result, she became pregnant and gave birth to a boy. When GM was still a child, she filed criminal charges against the assailant for these acts. The Office of the Public Prosecutor conducted an investigation and then relieved the perpetrator of the rapes of all responsibility, alleging unwillingness to cooperate on the part of the victim, who was never notified of decisions made in the proceedings and was saddled with the burden of proving the crimes. From the time she was displaced from her town of birth, GM has not been treated by the State with any regard to her status as a woman, minor, displaced person, afro descendant, mother and victim of sexual violence. The case is illustrative of the plight in Colombia of segments of the population who have been displaced by the war and of women and child victims of the conflict. CEJIL, the Corporación Sisma Mujer/Red Nacional de Mujeres and the Colombian Commission of Jurists (CCJ) brought the case before the IACHR in December 2007. In November 2009, information was presented with a view to having the case admitted.

ELENA TÉLLEZ BLANCO (TÍAS DEL PANI) V. COSTA RICA

CEJIL and the Workers' Union of the National Institute for Children (PANI), Costa Rica's child welfare agency,

filed a petition with the IACHR on 2003 alleging that the women who provide the direct care at PANI shelters are subjected to an excessively long work day, which in some instances runs as long as 24 hours non-stop over 11 consecutive days. The petitioners contend that this work schedule is a violation of the right to equal protection under the law, as this type of work specifically affects women and is tantamount to a form of gender-based work discrimination. Also alleged in the petition were violations of the right to personal integrity, protection of the family, private and family life and judicial protection.

The State argued that their work involves the care of children who are in State shelters and, therefore, the women workers are performing a duty similar to that of a mother and must be available 24 hours a day. The IACHR issued the Admissibility Report on April 26, 2007, written arguments on the merits were presented in 2008-2009, and in March 2009, a hearing on the merits was held before the IACHR.

SARAYAKU V. ECUADOR

In 1992, the State of Ecuador officially recognized the Kichwa People of Sarayaku as legal title-holders to their ancestral territory in the province of Pastaza, located in the Ecuadorean Amazon region. In spite of this, Ecuador entered into an agreement in 1996 with the Argentinean firm Compañía General de Combustibles (CGC), granting it rights to drill and extract oil mostly on Sarayaku territory and without community consent. This Government-

facilitated trespassing on Kichwa lands by CGC sparked tension in the community and led to confrontations between the indigenous people, CGC and the Ecuadorean Army. In 2003, CEJIL, the Kichwa People of Sarayaku and the Center for Economic and Social Rights (CDES) submitted a complaint to the IACHR charging Ecuador with violations of the fundamental rights of the indigenous people. The case is illustrative of native peoples' struggle to maintain control over their ancestral territory, stand up to extractive activities and defend their right to either give their consent to or refuse any activity affecting their communities.

On December, 18, 2009, the IACHR approved the Merits Report that found Ecuador internationally responsible for the alleged violations.

THE CONTRERAS CHILDREN AND THE DISAPPEARANCE OF OTHER CHILDREN V. EL SALVADOR

In August 1982, María Maura Contreras, her husband Fermin Recinos, and their five children ran for the mountains to hide during a Salvadoran Army operation in the Department of San Vicente. When soldiers found and attacked them, the family attempted to escape, but two of the girls, Gregoria and Julia, and one boy, Serapio, fell behind and were caught by the troops. Since then, the whereabouts of the children have been unknown. The IACHR consolidated into a single case, this case and the cases of sisters Ana Julia and Carmelina Mejia Ramirez and of child Jose Ruben Rivera, who all were victims of forced disappearance during Salvadoran Army operations in 1981 and 1982.

These cases expose a systematic pattern of removing children from their families and their subsequent disappearance, in the context of a counterinsurgency strategy that was used against the civilian population. The purpose of the litigation is to establish international responsibility of the State for violation of the right to life, personal integrity, the family and name, among others, and press for a diligent investigation into the whereabouts of the missing children.

The Association for the Search for Disappeared Children (Pro-Búsqueda) and CEJIL have been co-litigating the cases before the Inter-American system since 2003. In 2009, the IACHR issued a Merits Report and the State has requested an extension to implement the recommendations. In the event it fails to do so, the IACHR could submit the case to the Inter-American Court.

AMEZIANE V. UNITED STATES

In August 2008, CEJIL and the Center for Constitutional Rights (CCR) brought the first case before an international body for human rights violations committed by the United States at the Guantanamo detention center. The case was brought before the IACHR under the name of Djamel Ameziane, an Algerian citizen who has been held since 2002 without any charges being brought against him. The story of the case was covered by the media in the United States, Latin America and the Middle East. The IACHR ordered the United States to take immediate steps to protect the physical integrity of Ameziane and avoid his transfer to any country where he could be at

risk of torture. The conditions of Ameziane's detention have improved since then, even though he is still being held uncharged in Guantanamo. CEJIL and the CCR seek the release of Ameziane because he is in "legal limbo" and there is no effective judicial remedy available to him.

WAYNE SMITH V. UNITED STATES

Wayne Smith was born in Trinidad and Tobago and arrived in the United States in 1967, when he was 10 years old. He married an American and had two children, who were born in the US. In 2001, he was deported under the 1996 immigration law, which ordered deportation of people convicted of certain categories of crimes. These provisions in the law constitute several violations of fundamental rights, including the right to due process of the law, because they preclude Mr. Smith, for instance from benefitting from any form of judicial review of the deportation order and require him to remain in custody while the administrative case is pending. CEJIL, the Center for Global Justice and the Gibbs Houston Pauw law firm filed a petition with the IACHR in 2002. The case was declared admissible in 2006 and, in December 2009, the IACHR issued the Merits Report, which finds the United States responsible for violations of the victim's rights.

OPARIO LEMOTH MORRIS ET AL V. HONDURAS (MISKITO LOBSTER DIVERS)

More than 3,000 Miskito Indian divers have either lost their lives or endured injury or permanent disability as a result of unsafe working conditions in lobster hunting on

the Caribbean coast of Honduras (a situation also found on the Nicaraguan coast). Many of them are suffering from decompression sickness and other illnesses stemming from inadequate equipment and dangerous working conditions. Failure to provide medical facilities in these remote areas, failure of the Ministry for Labor and Social Security to inspect working conditions, and the total unavailability of any judicial remedy to protect these divers, is all tantamount to a violation of the right to health, to personal integrity, adequate working conditions and effective judicial protection. Consequently, the Miskito Honduran Association of Disabled Divers (AMHBLD) filed a petition with the IACHR in 2004 and CEJIL became a co-petitioner in 2007. In November 2009, the IACHR admitted the case. This marked the beginning of discussions on its merits.

CASES OF RAPE, TORTURE, AND JURISDICTION OF MILITARY COURTS V. MEXICO

In 2009, the IACHR submitted to the Inter-American Court of Human Rights two cases involving the rape of two different Tlapaneca (me'phaa) indigenous women in the State of Guerrero. In both cases (*Fernandez v. Mexico* and *Rosendo v. Mexico*), internal investigations were referred to the military courts where no diligent action was taken. The petitioners charged members of the Army with rape and torture and questioned the use of military courts to investigate and prosecute common crimes and human rights violations. Also at issue in the petition was a lack of due diligence in the investigation,

failure to punish those responsible for the crimes and impeding access of female victims of violence to justice, particularly indigenous women. The petitioners alleged violations of the American Convention on Human Rights, the Inter-American Convention to Prevent and Punish Torture and the Convention of "Belem do Para". Both cases were submitted to the Court in 2009 and are being litigated by the Tlachinollan Center for Human Rights, the Me'phaa Tlapaneco Indigenous Peoples Organization (OPIM) and CEJIL.

RODOLFO MONTIEL AND TEODORO CABRERA (ENVIRONMENTALISTS) V. MEXICO

In May 1999, the military fired on a house in the community of Pizotla, State of Guerrero, where members of an environmental organization were located. The soldiers illegally and arbitrarily detained Rodolfo Montiel and Teodoro Cabrera, who were then held in solitary confinement and tortured. The two environmentalist farm workers were convicted for crimes they did not commit and remained in custody for two and half years, until November 2001. That month, following the public attention the case generated nationally and internationally, they were freed on "humanitarian grounds" without recognition of their innocence. The perpetrators of these assaults have not been punished. The case of the environmentalists was brought before the IACHR in October 2001. CEJIL is litigating the case with the Tlachinollan Center for Human Rights and the Miguel Agustin Pro Juarez Human Rights Center (PRODH). In June 2009,

once the case's Merits Report had been submitted and the State had not complied with the IACHR's recommendations, the case was referred to the I/A Court HR. The IACHR explained to the Court that "the case is illustrative of the abuses committed by military forces stationed in the State of Guerrero as well as of the impunity in which these crimes have remained, largely attributed to the fact that military justice intervened in the investigation and prosecution."

VÉLEZ LOOR V. PANAMA

Mr. Jesus Velez Loor had to endure inhuman detention conditions in Panama for ten months. His crime was entering Panama for the second time as an Ecuadorean migrant without proper immigration papers. The human rights violations against Jesus Velez Loor took place in a broader context of discrimination and criminalization of undocumented immigrants and highlight inadequacies in the Panamanian prison system. The IACHR admitted the case in October 2006 and submitted it to the I/A Court H.R. in October 2009.

AGUAYO V. PARAGUAY

The Aguayo case has successfully put a number of issues on the Inter-American System's agenda: the practice of detaining street children living in vulnerable situations and depriving them of their liberty, at the orders of judicial authorities—particularly in 2000 and 2001—and the execution of these orders by police agents in Asuncion. This practice also led to the confinement of children in

institutions and shelters without adequate oversight by authorities. In the petition, charges were leveled against the State for alleged violation of freedom and the failure to fulfill its duties regarding the right to family life, protection, due process and judicial protection, which are all inherent to children. In the March 2008 Admissibility Report, the IACHR held that Paraguay has the obligation to take positive measures to protect children either through judicial or administrative proceedings which adhere strictly to law and safeguard their rights. After the petition was declared admissible, the State and the petitioners met to engage in friendly settlement negotiations. The petitioners hope to be successful in advocating public policies related to the rights of children who are currently housed in the so-called 'centros de abrigo' or shelter centers. The petitioners also seek to discuss whether judges currently apply the Code of Children and Adolescents in a way that ensures special treatment of children as well as timely, periodic reviews of conditions of child confinement. Petitioners are also seeking monetary reparation for each of the victims.

NARCISO GONZÁLEZ V. DOMINICAN REPUBLIC

On May 26, 1994, Narciso Gonzalez was arrested and clandestinely 'disappeared' by Dominican military forces. He worked as a journalist, attorney and university professor and was widely known as a promoter of socio-cultural activity and champion of human rights. Narciso Gonzalez was held at the J-2 facilities, a military agency located outside the city of Santo Domingo, after blowing

the whistle on voter fraud in the May 16 elections of that year. The National Police Chief and high-ranking members of the military command deny that such an arrest ever took place. As of the present time, the whereabouts of Professor Gonzalez are still unknown and the Dominican State has not yet investigated or clarified the crime. CEJIL and the Truth Commission submitted a complaint to the IACHR, which was admitted in 1998. After many procedural steps and requests, the IACHR issued the Merits Report in December 2009. This case could be the first time the Dominican Government ever looks into past crimes and addresses responsibility for silencing a journalist who spoke out against crimes of public interest.

GELMAN V. URUGUAY

Maria Claudia Garcia Iruretagoyena de Gelman was abducted in Buenos Aires in 1976. She was 7 months pregnant at the time and was clandestinely transferred to Uruguay, where she gave birth. Her newborn child, Maria Macarena, was left at the door of a member of the Uruguayan Police Force, who adopted her. Maria Claudia was the victim of forced disappearance after giving birth. These crimes were part of Operation Condor, a mutual cooperation agreement during the mid 1970's between the dictatorships of Argentina, Chile, Paraguay, Uruguay and Brazil to eliminate anyone viewed as a political dissident. In 1999, Maria Macarena's grandfather, poet Juan Gelman, found his granddaughter. CEJIL and attorney Jose Luis Gonzalez jointly filed a complaint with the IACHR in May 2006. In May 2007, the IACHR

found the case admissible and, in 2009, issued its Merits Report. In 2009, despite the recommendations issued by the IACHR, the State did not repeal the Law on the Expiration of the Punitive Claims of the State, a sort of amnesty law, which had precluded investigation and punishment of those responsible. This case not only illustrates the scope of Operation Condor, but also the impunity that developed in Uruguay and is still in place today. This is the first time Uruguay is to be submitted to the jurisdiction of the Court as a result of a law remaining in effect that prevents victims from gaining access to the truth and justice for crimes against humanity.

BARRIOS FAMILY (AND OTHER POLICE PERSECUTION CRIMES) V. VENEZUELA

The Barrios family of the town of Guanayen, in southern Aragua State, has been the target of police persecution stemming from its quest for justice in the execution of relative Benito Barrios, which occurred in 1998 at the hands of supposed police officers. After Benito was executed, two of his brothers were also murdered: Narciso, in 2003, and Luis Alberto, in 2004 and two nephews: Rigoberto, in 2005 and Oscar, in 2009. In all of these instances police agents are suspected of committing the crimes. In January 2009, the IACHR admitted the petition regarding Benito Barrios' extrajudicial execution and the assaults on his relatives. CEJIL and the Human Rights Justice and Peace Commission of the State of Aragua documented human rights violations of more than 30 family members that were victims of extrajudicial executions, injuries, deprivation of

liberty, threats, harassment and raids. The IACHR approved precautionary protection measures for the Barrios family members and the I/A Court H.R. also granted the family provisional measures. The case of the Barrios family has been unfolding in a context of arbitrary detentions and systematic extrajudicial executions targeting young people belonging to lower-income groups and perpetrated by police agents, which began in the late 1980's.

CASES IN THE JUDGMENT IMPLEMENTATION PHASE

TRUJILLO OROZA V. BOLIVIA

On February 27, 2002, the I/A Court H.R. found Bolivia responsible for the illegal detention, torture and forced disappearance on February 2, 1972 of Jose Carlos Trujillo Oroza at the hands of agents of the State. The Court ordered the State to take several measures, but the remains of the victim have still not been located, nor have those responsible for the crimes been identified and punished. In November 2009, the Court issued a judgment of Execution, which keeps the case open with regard to the two pending items. The Court ruled that the status of the criminal proceedings to date amounts to a violation of the State's duty to investigate, identify and punish those responsible for the forced disappearance of Mr. Trujillo Oroza.

MZ V. BOLIVIA

A woman was raped at her place of residence in 1994. She reported the crime, but the assailant was acquitted as

evidence was suppressed based on arbitrary grounds and discrimination against women. The woman unsuccessfully appealed the acquittal of the defendant before the Bolivian appellate courts. In November 2000, CEJIL, the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM) and the Legal Office for Women of Cochabamba, submitted a petition to the IACHR for violation of due process rights, the right to judicial protection and equality before the law. The IACHR admitted this matter in 2001. The case casts light on the discriminatory bias that pervades the administration of justice in cases of sexual violence in Bolivia. In March 2008, a friendly settlement agreement was signed whereby the State admitted international responsibility. The reparation agreement also includes, among other measures, raising awareness of gender violence among members of the Judiciary. On July 21, 2008, Bolivia publically admitted its international responsibility.

JAILTON NERI DA FONSECA V. BRAZIL

In 2004, the IACHR found the State of Brazil internationally responsible for the extrajudicial execution of teenager Jailton Neri da Fonseca at the hands of military police and for the impunity of the crime. The IACHR Merits Report marks the first time this body has ever drawn a connection between the lethality of police actions in the city of Rio de Janeiro, racial discrimination and the failure to provide special protection to at-risk children and teenagers. This case stands as an example of the climate of violence that has gripped the city of Rio de Janeiro, where in 2008 the

Police Department reported 1,137 deaths arising from resisting arrest, which accounts for 19.9% of all murders in the city for that year. Following intense negotiations in 2009, an appropriate amount of compensation was paid out and the Governor of the State of Rio de Janeiro and the representative of the Military Police of the State issued a public apology and admission of responsibility.

MARIA DA PENHA MAIA FERNANDES V. BRAZIL

In 2002, the IACHR found the State of Brazil internationally responsible for failure to investigate, prosecute and punish the assailant of Maria da Penha Maia Fernandes. In 1983, her husband attempted to murder her twice, and she became a paraplegic as a result of the attacks. After a long trial, the assailant was still not in custody and the Brazilian courts failed to act until CEJIL and the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM) filed a petition with the IACHR on behalf of Ms. Fernandes. This was the first time the IACHR applied the Convention of Belem do Para and advocated several structural transformations in Brazil, including approval of the statute known as 'Maria da Penha's Law' on domestic and family violence against women. In 2008, the State made good on payment of compensation to Ms. Fernandes. However, the investigation into the delay in prosecuting the case is still pending.

MAPIRIPÁN V. COLOMBIA

In July 1997, members of the Colombian Army, including high-ranking officers, allowed paramilitary forces to

enter the town of Mapiripan and terrorize the community for five days torturing and executing residents, while the Armed Forces stood by and did nothing to prevent it. CEJIL and the “Jose Alvear Restrepo” Lawyers’ Collective represented the families of the victims of the massacre in the Inter-American system. The case concluded with a I/A Court H.R. judgment ordering the State to investigate, prosecute and punish those responsible for the massacre. In November 2009, the Superior Court of Bogota found General Jaime Humberto Uscategui guilty of collaborating with the paramilitary groups in the massacre. Even though the collaboration of the Colombian Armed Forces had been widely documented, this crime marked the first time a general was convicted for such collaboration.

LA ROCHELA V. COLOMBIA

In collusion with members of the public security forces, Colombian paramilitary forces executed in 1989, twelve prosecutors, judges and judicial investigators and wounded another three in what came to be called “the massacre of La Rochela.” The “Jose Alvear Restrepo” Lawyers’ Collective and CEJIL co-litigated the case before the Inter-American system on behalf of the victims and their next of kin. In May 2007, the I/A Court H.R. found that Colombia was responsible for violating the right to life, liberty, personal integrity and ordered reparations for 15 victims and 99 of the victims’ relatives. Colombia was also ordered to investigate the massacre by, among other things, investigating whether or not high-level officials ordered, knew about or should have known about the actions of the

paramilitary members. The Court also examined the country’s legal framework as it pertains to the demobilization of illegal armed groups, making it clear that lax processes that culminate in inappropriate sentence reductions could make the State responsible. In June 2009, in response to the Court’s judgment, three high-ranking retired military officers and a former congressman were investigated for their role in facilitating the massacre.

HUMBERTO PALAMARA V. CHILE

After authoring a book on ethics and military intelligence services, Humberto Palamara, a former naval intelligence officer, was subjected to censorship and convicted in a trial marred by irregularities before a military court. He was found guilty of the offense of disrespect, a type of slander designed to protect public figures from criticism. CEJIL litigated the case, beginning with submission of the petition to the IACHR in 1996. The case was brought before the I/A Court H.R. in 2004. In 2005, the Court ordered Chile to publish the book and amend the Code of Military Justice as needed to make it consistent with international obligations. Full implementation of the judgment handed down by the I/A Court of H.R. entails bringing military justice in line with international standards. In 2008-2009, a national reform process was set in motion. The Executive Branch created a commission tasked with preparing the draft legislation to fully reform the military justice system as provided by the Court’s order. In January 2009, at a hearing before the Court, it was reported that the State’s efforts to implement the

judgment were inadequate. In order to comply with the order of the Court, the Executive Branch of Government introduced, without any sense of urgency, two bills in Congress on military crimes and punishments, and on jurisdiction and competence of the courts and the attendant procedures. To fully complete the reform, a third bill on the organizational structure of the courts would still have to be approved.

MONSIGNOR ROMERO V. EL SALVADOR

Monsignor Oscar Arnulfo Romero y Galdámez, a widely known human rights and peace defender in El Salvador, was executed by death squads in March 1980, while he was conducting mass. Under the current Amnesty Law in effect in El Salvador, the crime has remained in total impunity. In 1993, the Office of Legal Protection of the Archbishop of El Salvador brought a complaint before the IACHR. In 1998, CEJIL joined the case as co-petitioner. In April 2000, the IACHR found that the State was responsible for violation of the right to life, a fair trial and judicial protection, as well as failure to bring domestic legislation in line with the American Convention on Human Rights. The IACHR urged the State to investigate and punish those guilty of the crimes and repeal the Amnesty Law. For years, the State denied any responsibility for the crime. However, as of 2009, the Salvadoran State not only has admitted its responsibility, but has also apologized and pledged to implement the IACHR recommendations in good faith and make good on the petitioners’ proposed reparation.

SERRANO SISTERS V. EL SALVADOR

Erlinda and Ernestina Serrano Cruz, 3 and 7 years old respectively, were victims of forced disappearance in 1982 at the hands of the Salvadoran Armed Forces, during an operation in the village where they lived. Despite the family's efforts, the girls were never found. CEJIL and the Association for the Search for Disappeared Children (Pro-Búsqueda) litigated the case. In 2005, El Salvador was sentenced by the Court and has since then been pressed to implement the reparations ordered. Since the judgment was issued, the petitioners have been monitoring its execution. Effective participation has been requested from The National Commission for Disappeared Children. Some of the concrete measures required include the creation of an official web page to help locate the hundreds of disappeared girls and boys, now young people (many of whom have been found alive in other countries). Other pending issues include moving the investigations forward, recognizing international responsibility and offering medical and psychological assistance to the family.

Pro-Búsqueda has documented over 850 cases of missing children and has found approximately 350 alive.

DOS ERRES MASSACRE V. GUATEMALA

In December 1982, the Guatemalan Army overran a village in the Department of Peten, tortured its residents and executed more than 250 men, women and children. CEJIL and the Association of the Family Members of the Detained-Disappeared of Guatemala (FAMDEGUA) filed a petition with the IACHR in 1996 and the case was submitted to the

I/A Court H.R. in 2008. At the time of the crimes, Guatemala had not accepted the jurisdiction of the Court. Therefore, the IACHR limited itself to request that the Court find that the State violated the right to a fair trial and judicial protection, in light of the lack of due diligence in the investigation, prosecution and punishment of those responsible. Nonetheless, after hearing the arguments put forth by FAMDEGUA and CEJIL, the Court found in November 2009 that the State had also violated the right to protection of the family and children, the Inter-American Convention to Prevent and Punish Torture and the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women. Accordingly, it ordered several different measures be taken to ensure justice: to create a commission to search for disappeared children, exhume the bodies and return the remains to the families, provide medical and psychological assistance to the relatives as well as issue public apologies and erect a monument in commemoration of the victims.

JORGE CARPIO NICOLLE V. GUATEMALA

In 1993, Jorge Carpio Nicolle, an accomplished journalist, opposition politician and editor-in-chief of the daily newspaper *El Gráfico*, was murdered alongside three other individuals, when more than 15 hooded armed men attacked the motorcade in which they were driving to a rural area of Guatemala. CEJIL and Guatemalan and international partner organizations brought a case before the IACHR for the crime in 1994. The case was submitted to the I/A Court H.R. in 2003. Guatemala admitted its re-

sponsibility for the crime a year later. This case was one of the first times that the I/A Court H.R. employed the concept of "fraudulent *res judicata*," as prosecutors made it seem like they had conducted an investigation, only to close the case file. The Court also ordered measures to strengthen the capacity of the State to investigate. In January 2009, a status hearing on supervision of execution of judgment was held. This led to an unprecedented domestic judicial decision in Guatemala: the Supreme Court ruled that execution of the I/A Court H.R.'s judgment had to be automatic. Thus criminal prosecution of those allegedly responsible for the crime could resume.

JEANNETTE KAWAS V. HONDURAS

Jeannette Kawas was a Honduran environmental activist, who was murdered in 1995 because of her efforts to stop illegal logging and protect the environment in the area of Tela Bay on the Honduran Caribbean coast. The crime went unpunished. Jeanette's murder took place in a context of assaults on environmental defenders in Honduras and is characteristic of these. In 2003, CEJIL and Jesuit community's Team for Reflection, Investigation and Communication (ERIC) filed a petition with the IACHR, which then submitted the case to the I/A Court H.R. in 2008.

The Court handed down its judgment in April 2009. One of the notable aspects of the judgment is the finding that people who work for economic, social and cultural rights and, specifically, environmental issues, must be considered human rights defenders and have the same guarantees available to them in performing their job. Accord-

ingly, the Court ordered the State, among other things, to implement a public awareness campaign on the topic. The IACHR is looking into two other cases of killings of environmentalists in Honduras and has kept precautionary protection measures in place for several members of Olancho Environmental Movement (MAO).

ALFONSO MARTÍN DEL CAMPO DODD V. MEXICO

Alfonso Martín del Campo Dodd has served more than 18 years of a 50-year prison sentence from a conviction that was based, among other things, on a confession exacted by torture. Despite reporting to a judge that he had been tortured (one of the police officers who perpetrated the crime was actually given administrative sanctions for his actions), Alfonso Martín del Campo was convicted and the charges of torture were not properly investigated. This emblematic case exposes a pattern of exacting confessions by torture in Mexico. It also highlights the fact that judicial officials attach full weight to such Statements. In 2004, the Inter-American Court held that it could not examine the case because it lacked time-based jurisdiction to do so. CEJIL, Action by Christians for the Abolition of Torture (ACAT) and Alfonso Martín del Campo's attorneys insisted that the IACHR monitor the recommendations issued. In March 2009, the IACHR approved a historic resolution to reclaim jurisdiction over the case. Subsequently, it published its Merits Report and reminded the Mexican State of its duty to release Campo Dodd and review the proceedings that led to his incarceration.

SANTANDER TRISTÁN DONOSO V. PANAMA

In July 1996, Santander Tristan Donoso, a widely known human rights defender, was the subject of an illegal telephone tap during a conversation with one of his clients. Panama's Attorney General released a recording of the conversation. Mr. Tristan Donoso reported the incidents and lodged formal charges against the Attorney General, who in turn brought a private suit against Tristan for alleged crimes of defamation of character. Tristan lost the case and was convicted of slander. In 2000, CEJIL and the Center for Popular Legal Assistance (CEALP) filed a petition with the IACHR alleging violations of the right to privacy, fair trial, judicial protection and freedom of expression. In August 2007, in response to the failure to implement its recommendations, the IACHR brought a case before the I/A Court of H.R., which handed down a judgment in January 2009. The ruling is a preview of legal precedent to come as it establishes that assertions of fact, inaccurate though they may be, are protected by freedom of expression, provided that the person who makes them is convinced of their accuracy. Moreover, this is the first time the Court has taken a stand on protection of the privacy of telephone conversations.

HELIODORO PORTUGAL V. PANAMA

Heliodoro Portugal, a political opposition leader in Panama, was a victim in 1970 of forced disappearance by intelligence agents and was subsequently tortured and executed. His remains were found at military facilities in 1999. However, more than 30 years after his disappearance, the Government

has not managed to ascertain the truth regarding the crimes and none of the perpetrators have been punished. In 2001, CEJIL and Mr. Portugal's daughter, Patria Portugal, filed a petition with the IACHR, which yielded a finding in October 2005 that Panama was responsible for the crimes. In January 2007, the case was submitted to the I/A Court H.R, which handed down its judgment in August 2008. It was the first time that an international tribunal made a pronouncement on gross human rights violations that had been committed during a military dictatorship in Panama (1968-1989) and had been denied up until then. The Court expressly mentioned the context in which the crimes were committed and found the State responsible for the forced disappearance of the victim. It further ordered Panama, among other measures, to implement domestic legislative reforms as it found that forced disappearance and torture are not adequately covered as criminal offenses in the country's Criminal Code.

MARCELINO GÓMEZ AND CRISTIAN PAREDES V. PARAGUAY

In 1997, the Paraguayan Army illegally recruited two children: Marcelino Gomez Paredes and Cristian Ariel Nunez, by forging the age on their official documents and without obtaining parental consent. In February 1998, the children disappeared from their military unit. Their whereabouts are still unknown to this date and their parents have received no satisfactory explanation. A petition was filed with the IACHR and was declared admissible in 2003. In October 2009, a friendly settlement agreement was entered into between the State of

Paraguay and CEJIL and SERPAJ-PY, as the representatives of the victims. In the agreement, the State admits the violation of the victims' right to personal liberty, personal integrity, life, special protection measures for children, judicial protection and to a fair trial. A provision of the agreement requires Paraguay to create an investigating commission on the disappearance of children and to punish those responsible for human rights violations. The agreement also requires Paraguay to publicly admit responsibility and apologize to the families of the victims. It is also obligated to introduce a bill to amend the Criminal Code to make forced disappearance a criminal offense. Additionally, the State must show a documentary video produced by the petitioners at military training academies on the human rights violations entailed in recruiting underage children into the Armed Forces.

VÍCTOR HUGO MACIEL V. PARAGUAY

Víctor Hugo Maciel was illegally recruited by the Paraguayan armed forces when he was 15 years old. He died while performing physical exercises that he had been ordered to do as a punishment, against his will. CEJIL and Peace and Justice Service-Paraguay (SERPAJ-PY) filed a petition with the Commission on behalf of his family members. The case came to a friendly settlement in July 2005, whereby the Paraguayan State pledged, among other things, to introduce bills in Congress to prevent the recruitment of child soldiers by the Armed Forces. It also pledged to retract its interpretative declaration on the Optional Protocol to the Convention on the Rights

of the Child, wherein it refused to pledge to not recruit children under 18 years of age into its Armed Forces. In 2007, Paraguay ordered all child soldiers who were enrolled in the Armed Forces to return home. From 2007 to 2008, amendments to the law were made to prohibit individuals under the age of 18 from joining the Army. In August 2009, the IACHR issued a report finding that the friendly settlement was partially fulfilled. The State must still investigate and punish those responsible.

VARGAS ARECO V. PARAGUAY

The Armed Forces of Paraguay recruited minor Gerardo Vargas Areco in violation of international legal standards. In 1989, he was tortured and killed by the Army for taking leave without permission. In 1999, CEJIL and SERPAJ-PY filed a petition with the IACHR and, in 2005, presented arguments on behalf of the victim and his family members before the I/A Court H.R. During a case hearing in 2006, Paraguay admitted responsibility for human rights violations, but objected to the reparation being sought by the representatives of the victims. In its judgment, the Court ordered the State to pay compensation to the family, provide human rights training to the members of the Armed Forces and amend domestic law to be consistent with the prohibition in International Law on the recruitment of child soldiers. Over the course of 2007 and 2008, Paraguay amended its domestic legislation on the subject of the recruitment into the Armed Forces of minors under the age of 18. In February 2008, the Court-ordered payments were made and in December of that year a public apology was

issued. The only pending issue is for the State to conduct a serious and effective investigation to allow for the identification and punishment of those guilty.

YAKYE AXA V. PARAGUAY

Asserting their right under Paraguayan law, members of the Chaco Paraguayan indigenous community Yakye Axa filed a request to reclaim the ancestral lands they had been driven off. As they were unable to survive away from their land, they attempted to return to the territory in 1996, but access was denied. The community set up precarious makeshift camps on a public road across from their ancestral lands. CEJIL and the pro-indigenous peoples' rights NGO Tierraviva a los Pueblos Indigenas del Chaco filed a petition with the IACHR in 2000 and the case was submitted to the jurisdiction of the I/A Court H.R. in 2003. In 2005, the Court found that the State had violated their right to property and life, among others. One of the reparation measures that were ordered by the Court was to return the ancestral lands. During 2008 and 2009, in the context of process of judgment execution supervision, CEJIL and its partner organizations continued to press for effective implementation of the measures ordered by the Court.

KENNETH NEY ANZUALDO V. PERU

Family members of Kenneth Ney Anzualdo, a 25-year-old student who was the victim of forced disappearance in Peru in 1993 during the regime of former President Alberto Fujimori, finally received a judgment from the I/A Court H.R. in September 2009, after a 16-year struggle for

justice. The decision establishes that Peru is internationally responsible for violations against Kenneth and his next of kin. Accordingly, the Court ordered the Peruvian State to provide comprehensive reparation to the victims, which included bringing its domestic legislation in line with international standards, including the criminalization of forced disappearance, the creation of a genetic information system to help identify the remains of victims, the investigation of the violations and punishment of those responsible, ascertainment of the victim's whereabouts, as well as issuing a public apology and dedicating a commemorative plaque to the student in the future Museum of Memory in Peru. CEJIL litigated this case jointly with the Pro Human Rights Association (APRODEH).

LA CANTUTA V. PERU

In July 1992, nine students and a professor were abducted and executed by a death squad. The Government finally arrested the perpetrators, but they were released under an Amnesty Law approved overnight at a hastily convened session of Parliament in 1995. The family members of the victims filed a petition with the IACHR in 1992. The Pro Human Rights Association (APRODEH), the Center for Peace Studies and Action (CEAPAZ) and CEJIL joined forces in this case as representatives of the victims. In light of the Peruvian Government's failure to implement the recommendations issued by the IACHR, the case was submitted in 2006 to the I/A Court H.R. In November 2006, the Court found that the amnesty laws lacked any legal effect and ordered the prosecution of

the perpetrators of the massacre. The investigations led to Fujimori being formally charged with the crimes after he had fled the country in 2002. CEJIL and other human rights organizations firmly supported the extradition.

In 2007, the Supreme Court of Chile authorized extradition of the former dictator. Two years later, the Special Chamber for Criminal Matters of the Peruvian Supreme Court found Fujimori guilty in the four cases of human rights violations that he had been charged with, including the forced disappearances and extrajudicial executions in the Barrios Altos and La Cantuta cases. In a unanimous decision, the Supreme Court found that the seriousness and scope of the crimes and the position of the defendant at the time the crimes were committed warranted 25 years in jail, the maximum sentence provided by Peruvian law. This was a landmark case in the struggle against impunity in Peru and the world, as it is the first time a national justice system in Latin America found a democratically elected head of State guilty of crimes against humanity.

CANTORAL BENAVIDES V. PERU

Luis Alberto Cantoral Benavides was 20 years old in 1993, when agents of the Peruvian State illegally arrested, tortured and unjustly convicted him of terrorism, over the course of several trials that violated his fundamental rights. Luis Alberto remained deprived of his liberty for four years. In 1996, the IACHR found that Peru was responsible for the violation of Luis Alberto's human rights and submitted the case to the Inter-American Court of Human Rights, which ruled against Peru in August 2000. Since the day the

Court handed down its decision, Luis Alberto has rebuilt his life, despite the enormous suffering and stigmatization he has endured as a result of the human right violations committed against him. With part of the compensation he received from the Peruvian State in 2003, he traveled to Brazil to study law, where he concluded his studies and became a member of the bar. The I/A Court H.R. ruled that Peru still had not fulfilled certain aspects of the judgment, particularly with regard to the investigation and punishment of the perpetrators. CEJIL co-litigated the case before the Inter-American System, together with the Ecumenical Federation for Development and Peace (Fedepaz).

YEAN & BOSICO V. DOMINICAN REPUBLIC

Because of their Haitian background, Dilcia Yean and Violeta Bosico, two children born in the Dominican Republic, were denied birth certificates and identity documents. Consequently, Violeta was not able to enroll in school. CEJIL, the Movement of Dominican-Haitian Women (MUDHA) and the International Human Rights Law Clinic, University of California, Berkeley School of Law (Boalt Hall) filed a petition with the IACHR in 1998 and the case was submitted to the jurisdiction of the Court in 2003. The Court issued a far-reaching decision in 2005 holding that the Dominican Republic had violated, among other rights, the right to equality before the law, nationality and recognition of juridical personality of the two children. The Court also emphasized that the State had the obligation to provide free primary education to all children. In 2007, the Dominican Republic finally paid

compensation to Yean and Bosico and in April 2009 published the essential portions of the judgment in the national press. However, in 2009 the Legislature passed a constitutional amendment that precludes granting nationality to the sons and daughters of “foreigners in transit or who illegally reside in Dominican territory”, in clear contradiction to the judgment of the Court. The petitioners continue to monitor execution of the judgment.

RETEN DE CATIA (AND OTHER PENITENTIARY CASES) v. VENEZUELA

In the midst of the chaos sparked by the attempted military coup in Venezuela in November 1992, thirty-seven inmates were executed in an overcrowded prison with inhumane conditions called Reten de Catia. Prison guards, National Guardsmen and the Metropolitan Police took part in these crimes.

CEJIL and the Committee of Relatives of the Victims of the Events of February-March 1989 (COFAVIC) brought the case before the IACHR in 1996, which submitted it to the jurisdiction of the I/A Court H.R. in 2005. In the July 2006 judgment, the Court found the State responsible for violating the human rights of the inmates and ordered an investigation of the crimes, the prosecution and punishment of those responsible, prison conditions to be brought in line with international standards, the exhumation of the victims’ bodies and compensation for the family members, among other measures. In November 2009, the Court found that Venezuela had still failed to execute the judgment.

CEJIL would like to thank Patricia Aballay,
argentine artist from Buenos Aires,
for allowing us to reproduce her work in this report.
www.patriciaaballay.com.ar

“North” watercolor on paper (16 x 23 cm)

