

Revisiting Human Rights in Latin America

By Christina Cerna

This Topical Research Digest on revisiting human rights in Latin America covers a wide range of subjects, both country specific and thematic, but has as its underlying theme the necessary protection of the human rights of vulnerable groups, whether they are women, children, lesbians, gay men, indigenous peoples, landless peasants, etc. This survey of literature on *revisiting* human rights in Latin America includes a rich selection of documents from international organizations, international human rights non-governmental organizations (NGOs) and a plethora of American and foreign journals.

Unlike the topics that dominated the attention of human rights institutions and NGOs that worked on Latin America some thirty or forty years ago, during the years of the military dictatorships in many countries in the region, the current human rights discourse is not about forced disappearances, or on extrajudicial executions and torture, although on some reduced level isolated instances of such violations continue to occur. Rachel Oster, in her piece on confronting the past, notes that the key UN members, who supported the creation of the International Criminal Court (ICC), later withdrew for fear of being held accountable for the abuses committed by members of their previous governments. States, instead of looking to international tribunals, she concludes, have confronted the atrocities of the past by gradually peeling away amnesty laws and prosecuting and punishing human rights offenders. This is evidenced by the Inter-American Court of Human Rights (IACtHR), which in recent years has considered a number of cases involving victims of past atrocities and the denial of justice. The *Barrios Altos* judgment of the IACtHR was the basis for the Argentine Supreme Court's rendering without effect its own amnesty laws.

Human rights concerns today are centered on the persistence of extreme poverty in the region, a curse that the hemisphere has been unable to eradicate, unlike the astonishing progress made in China and some parts of South-East Asia over the past thirty years.

The persistence of poverty in Latin America and its intrinsic link to human rights violations is sharply highlighted in Kyra Moon's piece on police violence in Brazil, which contains perhaps the most disturbing sentence in the Digest: "In 1992, the Sao Paulo police killed more people than the last military dictatorship did in all of Brazil during its many years of rule." This succinct and graphic description of what is known as "*inseguridad ciudadana*" (citizen insecurity) describes the prevalent fear in many Latin American countries of the deepening social inequalities, the increasing criminality, and the excessive use of State violence against the marginalized people of society who tend to fit the criminal stereotype. As is the case with many ghettoized African-Americans in the United States, in Brazil, the marginalized see the police as allies with the upper class in a chronic state of class warfare against them. As a result, many victims of police violence do not report crimes because they do not consider that the police are protecting them and because the police are not held accountable for their actions when they use excessive violence.

The Digest devotes three of its ten sections to Brazil, in recognition of the fact that Brazil alone physically comprises half of South America and has a population of approximately 200 million people (the Americas as a whole comprises approximately 900 million). Sarah Mogab

discusses the need for agrarian reform in Brazil, a country where 4 percent of the landowners own 79 percent of the land. Interestingly, the World Bank's 2006 World Development Report notes that although some economies, such as Brazil, have experienced enormous growth, "trickle down" benefits have failed to occur as the poorest in such economies remain fixed in poverty. Mogab advocates for land reform as a means to contribute to the alleviation of extreme poverty.

Adrienne Rosenberg discusses in her piece the Brazilian "paradox," the tension in Brazilian society regarding lesbian, gay, bisexual and transgender (LGBT) rights. The paradox consists of Brazil's traditional religious history of Catholicism juxtaposed with a sexually liberal public, making Brazil both a world leader for LGBT rights while simultaneously a leader in the commission of hate crimes and discrimination. Reportedly societal discrimination against transvestites is only against those who possess female or effeminate "attributes" whereas the "males" in the homosexual relationship are never discriminated against as gays. This point is also made by Stephanie Bell in her piece on violence against sex workers in Latin America. Given the alarming number of women killed in Ciudad Juarez, Mexico, it is interesting to learn that when a woman or girl disappears or is brutally murdered in Mexico, her family must prove that she did not live a "*doble vida*" (double life) for the police to investigate the crime. The presumption of innocence was designed, was it not, to stop people from having to prove that they did not commit the crime for which they stand accused? A principle apparently not yet internalized by the Mexican investigative police.

Eradicating poverty is not sufficient for eradicating child labor, concludes Michaelle Tauson. Huge economic growth in China, she notes, resulted in remarkable decreases in child labor, while in Brazil, the same increase in growth resulted in almost no change in the child labor rate, leading to the conclusion that cultural factors, other than simply poverty, influence the prevalence and persistence of child labor. A World Bank study has shown that indigenous children are more likely to work than non-indigenous children; parents with low education levels who worked as children are more likely to expect their children to work. Mexico's PROGRESSA, an education, health and nutrition program that supplements a child's would-be earnings by paying the family for sending the child to school has been extremely successful because it rewards the family for sending the child to school and is not considered a "hand out." Such creative solutions must be invented to defeat the cultural barriers that perpetuate child labor at the cost of education.

Two sections deal with the rights of indigenous peoples in the Americas. Dan Ruge discusses the failure of states to enforce the 2007 UN Declaration on the Rights of Indigenous People (with the unfortunate acronym "DRIP"). States generally adopt declarations rather than treaties when they are reluctant to give legally binding force to the principles that they agree to establish. Regrettably, seeking compliance with a ratified treaty is difficult enough, let alone seeking compliance with a mere declaration. Alexander Karklins' piece discusses the situation of the Zapatista movement within the larger panorama of indigenous rights in the hemisphere. Despite having forced political concessions from the Mexican Government with the San Andres Accords of 1996, which granted previously unrepresented indigenous groups a political voice in local governments, subsequent legislation has led to a watering down of the implementation of these accords due to the pressure of Mexico's business community and multinational corporations, two important

sectors that are reluctant to grant autonomy to indigenous communities because of fear that such autonomy would disrupt trade and negatively affect the economy.

The lack of political participation is also dealt with in Ursula Miniszewski's piece on Latin American women in politics, but the picture here is not as bleak as it is for indigenous peoples. Since 1991, eleven Latin American countries have adopted quota laws establishing minimum levels for women's political participation, and the proportion of women in the lower house of parliament has increased from approximately 12 percent to 22 percent in the period from 1990 to the present, a respectable increase. The fact that the presidencies of Argentina and Chile are currently held by women, and that the hemisphere has seen four earlier women presidents (in Argentina, Panama, Guyana and Nicaragua) is downplayed as an inaccurate position with which to measure women's political power and her piece focuses on the slow rate of such progress.

Lastly, the piece by Calla Cloud on human rights abuses along the Dominican-Haitian border addresses the problems confronted by Haitians who migrate from the poorest country in the hemisphere to the Dominican Republic in search of a better life. Approximately one million Haitian migrants now comprise at least 12 percent of the population of the Dominican Republic, and only a tiny fraction of them are there legally. Although the Dominican Republic now has the largest influx of migrants in the Caribbean, it would be interesting to do further research into the migration of Dominicans to Puerto Rico and the US mainland, a situation that makes an interesting parallel to that of the Haitians in the Dominican Republic. There are approximately 1.2 million Dominicans currently in the US, also in search of a better life, and many suffer the same abuses that the Haitians suffer in the Dominican Republic.

The human rights research being conducted by the graduate students of the Josef Korbel School of International Studies for *Human Rights & Human Welfare* tackles some of the most pressing human rights issues in the hemisphere today. Their contribution enriches the debate on these issues.