

ARGENTINA

TRANVESTITE DIES IN DETENTION

It has been reported that on 16 February 2000, Vanesa Lorena Ledesma, a transvestite whose legal name is Miguel Angel Ledesma, died in custody following five days of incommunicado detention in a police station in the city of Córdoba. Amnesty International has received reports that her body showed signs of torture and that the police also used physical violence at the time of her arrest.

Amnesty International is concerned about reports that the police, invoking provincial legislation, have targeted sexual minority groups subjecting them to harassment, ill-treatment and torture, in the context of the wide-spread application of police by-laws (*Edictos Policiales*) and the provincial code of misdemeanours (*Código de Faltas*). This provincial legislation allows police to impose detentions or sanctions for infractions that do not constitute a criminal offence. Certain articles in police by-laws, such as those regarding scandalous conduct or crimes against public decency, are reportedly frequently used to detain transvestites, transsexuals, gay men and lesbians. Reports indicate that they are detained in police stations in cruel, inhuman and degrading conditions, and that they are subject to torture, beatings, sexual harassment and extortion. This information appears to indicate that these groups are persecuted because of their sexual orientation or gender identity.

Amnesty International has expressed its concern to provincial and national authorities following reports of cases of human rights violations against members of sexual minorities¹. Amnesty International believes that the reported cases are not isolated examples of this practice and it is aware that several victims have not reported the ill-treatment they have suffered for fear of reprisals.

Vanesa Lorena Ledesma, who died in detention. Photograph taken by friends before her funeral. Her body allegedly showed signs of torture.

¹ For example, Amnesty International communication to Governor of Mendoza Province, October 1997 (Ref. TGAMR 13/14/97), case of Adriana Cortés, a transsexual woman ill-treated in police custody. Amnesty International communication to Minister of Interior, December 1997, (Ref. TGAMR 13/16/97) case of transvestite Nadia Echazú, severely ill-treated in police custody.

Vanesa Lorena Ledesma

According to reports, on 11 February 2000 Vanesa Lorena Ledesma, an activist and member of the *Asociación Travestis Unidas de Córdoba* (ATUC), United Transvestites Association of Córdoba, was detained in a bar in the city of Córdoba during a fight and charged with damage to the bar premises. She was initially taken to police station 19 (*Precinto* 19) and subsequently transferred to *Precinto* 18 where she was reportedly segregated from other detainees not for her protection but apparently to prevent them from having to share with a "sick" person. Reportedly, Vanesa Lorena Ledesma was HIV positive, attending the local hospital for periodic check ups and was in good health.

No further news is available about Vanesa from the time of her arrest until five days later, when a police report attributed her death to a "cardiac arrest". It has been reported that the results of an autopsy carried out on 16 February indicate that her body showed strong evidence of torture. Reportedly her body showed that she had been beaten while being handcuffed.

Legal complaints

Two organisations working for gay, lesbian, bisexual and transgender rights, the ATUC and the *Asociación Contra la Discriminación Homosexual* (ACODHO), Association Against Homosexual Discrimination, as well as two organisations working on AIDS issues filed a complaint before the *Defensoría del Pueblo*, Human Rights Ombudsman, in Córdoba. Complaints were also filed before the provincial attorney general, (*Fiscal*), the Córdoba Governor and the head of the provincial police internal affairs division (*Director de la División de Asuntos Internos de la Policía de la Provincia*).

Article 144 third (*tercero*) of the Argentine Penal Code establishes prison sentences of eight to 25 years and disqualification (*inhabilitación*) from holding public office, for all government officials who use torture against a detainee. Article 144 bis. (2°) and (3°) of the same code establishes penalties of one to five years' imprisonment, for public officials who ill-treat a detainee or use illegal methods of coercion such as "*apremios ilegales*", "illegal pressure", "*severidades*", "severity" and "*vejaciones*", "humiliation".

Background

During the years of civilian government, Amnesty International has requested from the authorities the effective and conclusive investigation into countless denunciations of torture, ill treatment and extrajudicial executions perpetrated by members of the federal and provincial police. Amnesty International is very concerned at information which indicates that whilst many victims are not prepared to make complaints about these practices due to fear of reprisals, those complaints that are made do not receive the attention of authorities or are not investigated with the seriousness that the nature of the complaint merits.

Amnesty International has noted with concern that the Argentine authorities do not appear to have taken effective action to eradicate the practice of torture and ill-treatment. Since 1987, Argentina is a State party to the Convention Against Torture, which prohibits the use of torture and other cruel, inhuman or degrading treatment and punishment. Even though Argentina is a federal state in which provinces have their own constitution, article 31 of the Constitution of the Republic establishes that international standards adopted by the state are binding on all provincial authorities. Article 22 of the Argentine Constitution of 1994 grants constitutional standing to all international treaties («*Los tratados y concordatos tienen... jerarquía constitucional.*», "All treaties and agreements have... constitutional status"). Article 18 establishes that "All types of torment and beatings...are abolished for ever" ("*Quedan abolidos para siempre ... toda especie de tormento y los azotes.*"). Human rights violations committed by police violate these guarantees.

Amnesty International

Amnesty International considers it to be vital that all reports of torture and ill-treatment be promptly, fully and impartially investigated and that those found responsible be suspended from active service and brought to justice. The United Nations Human Rights Committee, which monitors states' compliance with the International Covenant on Civil and Political Rights, made a pronouncement in this respect in July 1996 indicating that it is "imperative that stringent measures be adopted to address the issue of impunity by ensuring that allegations of human rights violations are promptly and thoroughly investigated, that the perpetrators are prosecuted, that appropriate punishments be imposed on those convicted and that victims be adequately compensate." The Committee established that "members of the security forces convicted of serious offences be permanently removed from the forces and that those members of the forces against whom allegations of such offences are being investigated be suspended from their posts pending completion of the investigation."

In order to prevent torture and ill-treatment by members of the security forces, Amnesty International believes that the provincial authorities should take the necessary steps to end incommunicado detention and ensure that all detainees have access to lawyers, doctors and relatives or others close to them without delay. The provincial authorities should send a clear message, through the chain of command, that all forms of torture or ill-treatment of detainees are prohibited. It should establish that those found responsible for such violations will be brought to justice ensuring in that way that human rights violations committed by members of the security forces do not remain unpunished.

KEYWORDS: DEATH IN CUSTODY1 / INCOMMUNICADO DETENTION1 / IMPUNITY1 / TRANSGENDER ISSUES / TORTURE/ILL-TREATMENT / USE OF EXCESSIVE FORCE / HARASSMENT / SEXUAL ORIENTATION / HOMOSEXUAL RIGHTS ACTIVISTS / POLICE / MILITARY

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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

Please start your action immediately. This action will last until 31 August 2000. Send courteously worded telegrams/faxes/express and airmail letters in Spanish, if fluent, otherwise English or your own language, in your own capacity and / or as a member of Amnesty International to the Governor of the Province of Córdoba and to the Minister of Justice with copies to the *Defensoría del Pueblo*, Human Rights Ombudsman, in Córdoba:

- < Calling for effective and conclusive investigation into the death in custody of Vanesa Lorena Ledesma (whose legal name is Miguel Angel Ledesma) following her detention on 11 February 2000;
- < Expressing concern over reports that her body showed signs of torture and ill-treatment urging that these be fully and impartially investigated and that those found responsible be suspended from active service and brought before justice;
- < Asking to be kept informed of measures that have been taken to investigate the death in custody of Vanesa Lorena Ledesma and reports of her torture and ill-treatment and measures taken to bring those responsible to justice;
- < Expressing concern at reports of ill-treatment of sexual minorities, amongst others, in the context of the application of provincial police by-laws which appear to facilitate torture or ill-treatment of groups targeted by the police;
- < requesting information on the mechanisms of supervision that exist in the Province of Córdoba to regulate police by-laws ensuring that their application does not violate specific articles of the National Constitution that prohibit and punish torture.

Governor of Córdoba Province

Señor Gobernador de la Provincia de Córdoba
Dr. José Manuel de la Sota, Casa de Gobierno
Calle Boulevard Chacabuco 1300, 5000 Córdoba, Córdoba, ARGENTINA
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Minister of Justice and Human Rights

Sr. Ministro de Justicia y Derechos Humanos
Dr. Ricardo Gil Lavedra, Ministerio de Justicia y Derechos Humanos
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Copies should be sent to:

Human Rights Ombudsman for Córdoba Province
Defensor del Pueblo de la Provincia de Córdoba

Dr. José María Zamanillo

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Please send appeals immediately. Check with the Argentina Team at the International Secretariat, if sending appeals after 31 August 2000.