

**CRIME WITHOUT PUNISHMENT**  
**IMPUNITY IN LATIN AMERICA**  
**A STATEMENT BY AMNESTY INTERNATIONAL**

Each day, Amnesty International becomes aware of further gross human rights violations, including political killings and "disappearances", committed in different parts of the world. One of the main factors contributing to these barbaric realities is the phenomenon of impunity: as long as the agents of repression believe they can kidnap, torture and murder without fear of discovery or punishment, the cycle of violence will never be broken.

With the dramatic political changes in various regions of the world, human rights have reached greater prominence in international relations than ever before. Governments find it increasingly embarrassing to be labelled as a human rights violator, not only at the United Nations but also in other relations between states. In June 1993, the second World Conference on Human Rights took place in Vienna, Austria. More than 170 governments were represented and, with varying degrees of sincerity, solemnly reaffirmed their commitment to fulfil their obligations to respect and promote human rights.

Countries whose rulers would not even have paid lip service to human rights a decade ago are now declaring their importance. Some are bringing their laws into line with international human rights standards or at least have promised to do so. Many have established new institutions to promote and protect human rights. In some cases, this reflects a real commitment by new governments. In others, it is simply a gesture without a clear political will.

However, political killings, torture, "disappearances", arbitrary arrests and detention continue to be committed with impunity, at times on a horrific scale. There is still no serious attempt at accountability in some countries where human rights are most brutally violated.

In today's world, gross violations increasingly take place under elected governments with explicit human rights commitments and institutions. The gulf between commitments and practice can only be bridged if all unresolved human rights abuses are properly investigated and those responsible brought to justice. Victims, their relatives and society at large all have a vital interest in knowing the truth about abuses. Bringing those responsible to justice is not only important in the individual case, but also sends a clear message that violations of human rights will not be tolerated and that those who commit them will be held fully accountable. When members of the police and security forces are allowed to commit crimes with impunity, deadly attitudes and contempt for the rule of law flourish.

To protect people's basic rights, we must have an international system of justice that complements existing national courts. Amnesty International is campaigning for the establishment of a just, fair and effective permanent International Criminal Court. After two years of campaigning by Amnesty International and other non-governmental organizations, the UN General Assembly is expected to adopt a resolution in December 1996 convening a diplomatic conference in 1998 to draft a treaty establishing such a Court. We will be calling upon governments to ensure that the Court is established before the year 2000.

**Latin America**

In some countries, violations are carried out by paramilitary groups or so-called "death squads" which operate with official approval.

Governments routinely claim to be powerless to control paramilitary groups and refuse to accept responsibility for bringing their abuses to an end. In Colombia many human rights violations in recent years, including thousands of political killings and hundreds of "disappearances", have been attributed to paramilitary organizations. These have been described by the Colombian authorities as groups of right-wing extremists acting outside state control. However, judicial investigations have uncovered compelling evidence that many paramilitary groups have been made up of, or supported by, members of the Colombian armed forces.

### Investigations

One technique used by governments and branches of the security forces to deflect criticism is to announce an investigation which then leads nowhere. Sometimes the announcements are made in good faith, but if they do not produce results they can end up simply acting as a barrier against uncovering the truth. In repeated cases of massacres by police in individual states in Brazil, Amnesty International has urged that federal authorities take over investigations to prevent the obstruction, manipulation and loss of vital evidence in the course of state police investigations.

Even when investigations are carried out and judicial proceedings started, the institutions responsible for the administration of justice are often weak or inefficient. Frequently they are susceptible to pressure from other branches of government or the security forces. Prosecutors or judges sometimes behave with outstanding courage, only to be killed or to flee into exile when their governments are unwilling or unable to protect them from the threats of the accused - usually members of their own security forces. In Guatemala, Judge María Eugenia Villaseñor, an appeals court judge, wrote a book critical of the handling of the Myrna Mack case by the judicial system. Myrna Mack, a US anthropologist, was killed in 1990. As a result of this and her involvement in other human rights cases, Judge Villaseñor been subjected to repeated death threats, acts of intimidation and, at one period, had to flee the country. There are continuing fears for her safety.

### The Process of Justice

The process of justice is sometimes subverted by measures such as transferring cases to special tribunals. Typically, as in Colombia, Guatemala and Peru, these are military tribunals which rarely pursue vigorously prosecutions against fellow officers in human rights cases. Often the accused are acquitted - sometimes even promoted. Major Luis Felipe Becerra, an officer in the Colombian army, whilst under investigation for his part in the 1988 massacre of 21 workers on two banana plantations in the Urabá region of Colombia, was promoted to Lieutenant-Colonel. Despite compelling evidence of his involvement in the massacres he was acquitted, only to once again be directly implicated in the massacre of a further 13 peasant farmers in 1993. If he had been held accountable for his earlier crimes, those 13 people might be alive today.

When in exceptional cases convictions are secured, the punishment rarely bears any relation to the crime.

Amnesty laws which prevent prosecutions and trials or close investigations also undermine the search for truth and justice. Some regimes responsible for human rights violations, anticipating their loss of power, have preempted investigation by proclaiming amnesties. Successor governments have been placed under tremendous pressure to uphold such measures, or to concede them where they did not already exist.

### Human Rights Defenders

Of great concern to Amnesty International are the continuing threats, harassment, arbitrary detention and torture by state agents of human rights defenders. Many have "disappeared"; many have been killed.

Defenders have a decisive role in countries suffering the consequences of violent conflict or dictatorship, where state officials feel free to act with impunity. They are often the only force standing

between the mass of ordinary people and the unbridled power of the state. They come from all walks of life; they can be academics, journalists, priests, peasant leaders, relatives of victims. In spite of the persecution they often suffer, they denounce and investigate human rights violations and are willing to fight to end impunity.

They are a crucial source of information about what is really happening in a particular country; they alert international non-governmental organizations and the media and report abuses to the relevant UN and other bodies, helping to breach the wall of silence that offending governments try to maintain.

#### Government responsibilities

If abuses by those responsible for law and order are to be brought to an end, Amnesty International believes that all governments must fulfil certain fundamental responsibilities.

First, there should be thorough investigations into allegations of human rights violations. The object of such investigations should be to determine individual responsibilities and to provide a full account of the truth to the victim, their relatives and society. Investigations must be undertaken by impartial institutions, independent of the security forces, which must be granted the necessary authority and resources for their task. The results of the investigations should be made public. When human rights violations have become endemic in a society, investigations of individual cases may not be enough. A public commission of inquiry should investigate the entire pattern of abuses and the reasons why they occur. It should examine the institutions and agencies responsible and propose future changes to laws, institutions, administrative procedures and practices, training and accountability of personnel.

Second, those responsible for human rights violations must be brought to justice. They must be held to account even if they were or are officials of a past or current government and regardless of whether they are members of the security forces or semi-official paramilitary groups. Those accused of human rights crimes should be tried, and their trials should conclude with a clear verdict of guilt or innocence. Amnesty International takes no position on what sentence should be passed, provided that the death penalty is not imposed. However, the systematic imposition of lenient penalties that bear no relationship to the seriousness of the offences brings the judicial process into disrepute and does not serve to deter further violations. Respect for the rule of law cannot be promoted unless all trials are conducted in full conformity with internationally recognized standards.

Third, amnesty laws which prevent the emergence of the truth and accountability before the law are not acceptable. This applies whether the law is passed by those responsible for the violations or by successor governments. The interests of national reconciliation after a period of violence and confusion may be served by pardons after conviction; Amnesty International takes no position on this. But it does insist that the truth is revealed and the judicial process completed.

The protection of human rights requires action, not words. Allowing the perpetrators to commit abuses, however clearly prohibited by law, without consequences for themselves, perpetuates their crimes. Ensuring that they are brought to justice transmits throughout a society the clear message that violations will not be permitted to continue. In the 1990s, the rhetoric of human rights has reached an unprecedented prominence in world affairs: in how many countries will this rhetoric be translated into action to halt the vicious spiral of political killings, torture, "disappearances" and other human rights abuses committed with impunity?

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