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£HONDURAS

@Children Unprotected from Abuse

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In the first six months of 1994, since the government of President Carlos Roberto Reina took office on 27 January, Amnesty International has received denunciations regarding several minors who have been subjected to illegal arrest, ill treatment and sexual abuse by members of the police and the army. Two such cases are detailed below. Amnesty International is gravely concerned that these complaints apparently have not been thoroughly and efficiently investigated, which leads the organization to the conclusion that in practice the basic rights of minors in Honduras are less than fully protected by the State.

MARTHA MARÍA SAIRE

Martha María Saire, 11 years of age, reportedly suffers from behavioural problems. She was a street girl in the city of San Pedro Sula, Department of Cortés, before she was sent to the Támara Juvenile Guidance Centre (*Centro de Orientación de Menores de Támara*) in Támara village, Department of Francisco Morazán, where she had been for over a year. The Centre is a detention centre for female minors run by the National Board for Social Welfare (*Junta Nacional de Bienestar Social*), (JNBS).

On 9 April 1994 Martha María Saire had been sent to throw rubbish outside the Centre, when she was approached by two uniformed members of the military battalion based in Támara, assigned to guard the Centre. According to the girl, the soldiers grabbed her and took turns to rape her. She screamed for help but nobody came. After sexually abusing her they offered Martha María money, warning her not to talk of what had happened, otherwise they would hit her. When the soldiers left, Martha María returned to the Centre and informed Dr María Dolores Miranda who, on 11 April, practised a gynaecological examination determining that the minor had been sexually assaulted. On April 13 the JNBS and Casa Alianza, an organization working with children in Latin America, presented the case to a Minors' Judge who

ordered a forensic examination by the court's medico-legal department, which confirmed the original medical findings.

Martha María Saire was subsequently transferred to the Santa Rosita Neuro Psychiatric Hospital in Támara, also run by the JNBS.

The case was presented on 22 April 1994 to the First Criminal District Court (*Juzgado de Letras primero de lo Criminal*) but there has not been any progress and no trial has been initiated against the alleged attackers of Martha María Saire although one of the soldiers is reportedly in detention. The other soldier has been reportedly withdrawn from active service but remains free. Casa Alianza, alleging that the case has been stalled since May, has urged the Minors' Procurator (*Procurador de Menores*) to exercise his legal attributions to speed up the court's proceedings.

MARIO RENÉ ENAMORADO LARA

Mario René Enamorado Lara, 16 years of age, lives in the transition home of Casa Alianza in the capital Tegucigalpa. The afternoon of 10 July 1994, when he was on his way to the home with other children and the home's counsellor, the group was stopped by eight uniformed members of FUSEP, Police First Squadron, who accused Mario René Enamorado Lara of having stolen a watch. The police proceeded to arrest him violently and without an arrest warrant. Mario René Enamorado was handcuffed, thrown in the back of a police vehicle and taken to the Squadron Headquarters in the Buenos Aires neighbourhood, where he was held in detention in a cell together with other adult detainees.

The same afternoon, a legal representative of Casa Alianza and the home's counsellor visited the police headquarters to ask for the minor. When he was eventually released under their custody, Mario René Enamorado Lara displayed injuries on the thorax, face and head. According to the minor's accounts of events, he was severely punched and kicked by three of the policemen in the police vehicle and in the cell where male prisoners also beat him up. A medical certificate issued by an independent doctor who carried out an examination on the minor shortly after his release, confirms injuries consistent with the allegations. Casa Alianza presented a formal complaint to the FUSEP and to the recently established Attorney General's Office (*Fiscalía General*), which is responsible for investigating *de oficio* all denunciations of human rights violations and includes an office for the protection of the rights of minors and disabled people. Neither complaint has yielded positive results to date.

BACKGROUND INFORMATION

Honduras, as a State party to the United Nations Convention on the Rights of the Child (*Convención de los Derechos del Niño*), which was approved and ratified by the Honduran National Congress (*Congreso Nacional*) in July 1990, presented its initial report on the implementation of the Convention to the United Nations Committee on the Rights of the Child (CRC), in May 1993.

At the end of 1993 the outgoing government of President Rafael Leonardo Callejas issued two decrees, ostensibly to protect Honduran children's interests and to fulfil its commitment as a State party to the Convention on the Rights of the Child. The first decree formally mandated the National Commission on Children's Rights, with representation from the government, diverse social sectors and child participation, to carry forward the process of fulfilment of the Convention. The second was the designation of the National Commissioner for the Protection

of Human Rights as the official "Protector of the Rights of the Child" (*Protector de los Derechos del Niño*).

Presidential elections held in Honduras in November 1993 were won by the Partido Liberal, Liberal Party, led by Dr Carlos Roberto Reina who took office on 27 January 1994. The new government was supposed to respond to questions at the plenary session of CRC held in Geneva in April 1994. The government did not attend however, on the grounds that the initial report had been prepared by the outgoing government and the new government was aware of its limitations and defects. Instead, the government of Dr Carlos Roberto Reina has said it will prepare a new report in order to provide a more realistic analysis of the problems confronting children in Honduras, and plans to attend the next CRC 1994 session in Geneva.

Honduras' obligations towards the provisions of the Convention on the Rights of the Child are enshrined in its Constitution, which establishes that international treaties and conventions and the texts of such instruments, once signed and ratified, become law that is in force in the country. Furthermore Article 120 of the Constitution establishes that mentally or physically deficient minors, those with irregular behaviour, the orphans and the abandoned will be under special legislation for rehabilitation, care and special protection according to the case. (*Art. 120 Los menores de edad deficientes física o mentalmente, los de conducta irregular, los huérfanos y los abandonados, están sometidos a una legislación especial de rehabilitación , vigilancia y protección según el caso.*)

Current Honduran legislation establishes that nobody can be arrested without a written warrant issued by the appropriate authority and provides that minors shall be temporarily lodged in the custodial centres, while the magistrate is considering the case. Article 37 of the Convention on the Rights of the Child states that no child shall be deprived of his or her liberty unlawfully or arbitrarily and that every child deprived of liberty shall be held separated from adults and treated with humanity and respect.

In practice, detained minors are not held separately and they are not always taken before minors' judges, particularly when the detention has occurred over the week-end when minors' judges are not on duty, in spite of provisions in the Code of Penal Procedure establishing every day of the week as a working day. In February 1994 a proposed bill was presented to the Honduran Congress to lower the age at which an individual can be held criminally responsible and admitted to the adult penitentiary system, from 18 to 16 years of age. There is a well-founded concern that if the bill is passed it would leave detained minors in an even more vulnerable position before the law. The bill is currently under study by a Congress Special Commission.

See overleaf for recommended actions and government authorities to write to

RECOMMENDED ACTIONS: Please send courteously worded letters and faxes either in Spanish or in your own language:

- ◆ expressing grave concern at the abuses committed by police and soldiers against the children featured in the text of this action;
- ◆ requesting information on the legal progress of the cases;
- ◆ asking for measures to guarantee the safety of the children included in this action and other physically or socially disadvantaged minors.
- ◆ expressing concern at the apparent lack of legal protection of the young victims in spite of the national legal provisions and the Honduran government's international obligation to uphold the Convention on the Rights of the Child;
- ◆ requesting information on the steps taken by the authorities to ensure compliance with the Convention on the Rights of the Child;

APPEALS to:

Sr. Presidente de la Corte Suprema de Justicia
Court

President of the Supreme

Lic. Miguel Angel Rivera
Palacio de Justicia, Boulevard Jose Cecilio del Valle
Tegucigalpa, Honduras
Fax: +504 337921

Sr. Fiscal General de la República

Attorney General

Lic. Edmundo Orellana Mercado
Fiscalia General, Ministerio Público
Edificio Castillo Poujol, Cuarta Avenida, Colonia Palmira,
Boulevard Morazán, Tegucigalpa, Honduras

Copies of Appeals: Please send a copy of your appeals to:

Procurador de Menores

Minors Procurator

Lic. Marco Tulio Abaddie
Corte Suprema de Justicia, Palacio de Justicia
Boulevard José Cecilio del Valle, Tegucigalpa, Honduras
Fax: (504) 31 28 66

Sr. Comisionado Nacional de
the

National Commissioner for

Protección para los Derechos Humanos
Rights

Protection of Human

Lic. Leo Valladares
Barrio la Granja, Calle 29, casa 228
Comayagüela, Honduras

Casa Alianza

Covenant House Latin

America

Apto 2401, Tegucigalpa, Honduras

and to diplomatic representatives of Honduras in your country.

Please note that 10 September is **Day of the Child** (Día del Niño) in Honduras

KEYWORDS: CHILDREN1 / SEXUAL ASSAULT1 / ARBITRARY ARREST / TORTURE/ILL-TREATMENT / MEDICAL CONFIRMATION / JUVENILES / POLICE / MILITARY / GOVERNMENT CHANGE / LEGISLATION /

This document is being sent to Honduras and CASA Coordinators for action as CASA 04/94. It is being sent to section for information. Please Check with the Honduras Research Department at the International Secretariat if sending appeals after 30 November 1994.

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