

Statement by Amnesty International on the occasion of the VII Ibero-American Summit of Heads of State and Government

*The title which has been chosen for the Seventh Ibero-American Summit of Heads of State and Government, due to take place on Margarita Island, Venezuela from 7- 9 November, is *The ethical values of democracy*. The aim of the Summit is to set in train a dialogue on "democratic governability and human rights". It therefore affords a unique opportunity to take stock of the human rights situation in the countries represented at the Summit.*

Since the First Ibero-American Summit, in Guadalajara, Mexico, in 1991, the Heads of State and Government have repeatedly expressed a public commitment to defend and promote human rights and to consolidate democracy, by firmly basing them on a full respect for the rule of law.

Considerable progress has been achieved since 1991. The era of military dictatorship has concluded, and the countries' institutions have been allowed to return to conditions of normality.

Peaceful settlements have been reached in relation to the armed conflicts which devastated Central America. Important human rights standards and protective mechanisms have been incorporated into the laws and even constitutions of many countries, while different national human rights institutions, such as Human Rights Commissions, Ombudsmen and Human Rights Procurator's Offices, have been strengthened or set up. Moreover, in most Hispano-American countries highly professional,

pro-active non-governmental human rights organisations have appeared, which have played an important role in reinforcing civil society, providing the public with added resources for dealing with State abuses.

There has also been new developments in the international human rights systems. The Ibero-American States have ratified most key regional and international human rights treaties. In 1994 the General Assembly of the Organization of American States (OAS) adopted the *Inter-American Convention on the Forced Disappearances of Persons*, the only regional instrument of a universal nature, given that it is open to adoption by any State, whether a member of the OAS or not. The United Nations has sent human rights monitoring missions to several countries in which they have had a useful impact. Recent years have witnessed a mushrooming of inter-governmental meetings at which States have publicly stated their intention to strengthen the rule of law and guarantee respect for human rights.

However, on the eve of the 21st Century there is still a huge gulf between intentions and harsh realities. There has been insufficient progress in rooting out the scourge of human rights violations which still holds most Ibero-American countries in its grip. There have been numerous official pro-human rights statements but many have proved to be no more than empty words.

Extrajudicial executions and “disappearances” continue to occur in Brazil, Colombia, Guatemala, Mexico and other countries.

In Colombia, for example, there have been over 30,000 political killings since 1986, most of which were perpetrated by the armed forces and their paramilitary proteges. The victims have included civilians caught up in internal armed conflicts, trade unionists, civilian and grassroots activists and human rights defenders.

In Peru, government and armed groups are still caught up in a long and cruel war which has claimed the lives of at least 27,000 people. Approximately half of these have died at the hands of government troops. Many of these deaths have not occurred during armed conflicts but were killings of defenceless civilians committed by either side. Peru's Public Ministry estimates that since 1983 there have been over 5,000 cases of people "disappearing" after being arrested by the security forces. The true figure could be higher.

In rural areas of Guatemala, civilian self-defence patrols, albeit officially disbanded, continue their devastation, even after the signing of the Peace Accords. Indian leaders and peasants, rural trade union leaders, local activists, indeed anyone who dares to resist the control of the local landowners and politicians, is threatened by these paramilitary groups. The threats sometimes turn into killings and other human rights violations, as Amnesty International has documented in recent cases.

Many human rights violations continue to be committed in cases of internal armed conflict, particularly in Colombia and Peru. Moreover, Amnesty International has observed that armed opposition groups in both countries are still infringing the most basic standards of humanitarian conduct, committing deliberate and arbitrary killings, abductions and torture, taking hostages and using anti-personnel mines. Amnesty International unequivocally condemns such abuses.

In the urban centres of many Ibero-American countries, groups on the fringes of society, such as homosexuals, prostitutes and drug addicts, are being targeted and killed by groups describing themselves as "private law-enforcers". Every year in Brazil, the police or "death squads" which frequently include off-duty policemen, are responsible for the killing or "disappearance" of an alarming number of teenagers, street children and young adults. In Venezuela, people described as "disposable", including children, have also been summarily executed as part of police operations "officially" designed to combat delinquency. In Argentina, the circumstances of the deaths of dozens of young people make it appear likely that they were extrajudicial executions by the police. Such contempt for human life means that anyone is a potential victim.

Amnesty International has recorded the use of excessive force during social conflicts, trade union protests and riots in Argentina,

Bolivia, Brazil, Costa Rica, Ecuador, Mexico, Paraguay and the Dominican Republic. In Costa Rica many people were wounded in 1996 by members of the civil guard and private police agents in operations to contain riots triggered by the privatisation of public services or to evict land squatters. According to information received by Amnesty International, these forces reportedly caused some deaths. The automatic response to demonstrations about difficult living conditions and social injustice continues to be repression.

The re-emergence of the death penalty has dealt a severe blow to the abolitionist tradition in Iberoamerica, a tradition of which Latin American countries are proud. It also mars Spain's contribution to that tradition by running counter to the recent abolition of the death penalty in that country. On 13th September 1996, after a period of 13 years, Guatemala recommenced executions by killing two citizens. The event was broadcast on television throughout the country, and even included a re-transmission of footage of one of the prisoners being shot in the head when the initial round of shots by the firing squad failed to kill him. In 1995, the Guatemalan authorities openly violated article 4.2 of the American Convention on Human Rights when they amended the Criminal Code, broadening application of the death penalty to cover new offences. The «unavoidable aim of making every effort» to abolish the death penalty, which Guatemala proclaimed in November 1969 when it joined 13

other Latin American states in signing the Declaration of the Participants in the Inter-American Specialised Human Rights Conference, has virtually become a dead letter. Mexico, a signatory to this declaration, has not abolished the death penalty. The death penalty is sometimes utilised in Cuba, where it is imposed for a variety of crimes. It continues to be legal in Chile, where it was rejected by Congress despite a proposal by a previous government to abolish it. In Peru, the applicability of the death penalty was extended in the Constitution introduced in December 1993, in contravention to the American Convention on Human Rights.

Hundreds of people are still being detained for their political opinions, religious beliefs, or simply for exercising their rights as citizens or for being conscientious objectors. Amnesty International has adopted "prisoners of conscience"¹ and called for their immediate and unconditional release in Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Peru, Spain and Uruguay. In Cuba, where the Communist Party remains the only legal political party, some 600 prisoners of conscience are serving up to

¹ Amnesty International considers "prisoners of conscience" to be all persons who are detained, imprisoned or subject to other physical restrictions because of their political, religious or other reason of conscience or for reason of their ethnic origin, sex, colour or language, provided that such persons have not used violence or promoted its use. Amnesty International includes in these cases persons accused of any crime, where the organization deems the accusation to be politically motivated.

15 years in prison for crimes relating to the peaceful exercise of their right to freedom of expression, association and assembly. Hundreds of political prisoners have been subject to proceedings which do not comply with international human rights standards, in particular those which protect the right to a fair trial. In Brazil, members of the pro-agrarian reform *Movimiento dos Trabalhadores Rurais sem Terra*, Landless Rural Workers Movement, have been arrested, accused of belonging to “criminal gangs” and subjected to trials which infringe international human rights standards. Several of the Movement's activists and sympathisers have been extrajudicially executed.

In Colombia and Peru, the introduction of special tribunals and the passing of draconian legislation have made it possible to prosecute and jail thousands of alleged “subversives”, many of whom could be prisoners of conscience. In both countries, thousands of political prisoners – including hundreds of prisoners of conscience or possible prisoners of conscience – have been prosecuted or are awaiting prosecution in judicial proceedings which fall far short of internationally recognised standards of independence and impartiality. In February 1997 the President of Peru publicly acknowledged the existence of 200 “innocent prisoners”, who had been falsely accused of terrorist-related crimes. Peru's *Coordinadora Nacional de Derechos Humanos*, National Human Rights Co-ordinating Body, estimated the figure to be 600.

Torture and ill-treatment continue to be commonplace. Complaints have been made of beatings, semi-asphyxiation, the use of electric shock and other forms of torture in Argentina, Brazil, Colombia, Chile, Ecuador, Mexico, Paraguay, Portugal, Peru, Spain, Venezuela and other countries. Amnesty International recorded several cases of torture in Chile in 1996. The police there kept several prisoners blindfolded and chained to a wall for several days and tortured them with electric shocks to the head and genitals. In Portugal, ill-treatment of people in police custody is a relatively common phenomenon, as the European Committee for the Prevention of Torture has observed. During 1996, Amnesty International recorded several cases of people being killed in custody in Portugal.

The daily violence and jail conditions to which hundreds of thousands of prisoners in many countries are subjected constitute inhumane and degrading treatment. This situation has frequently given rise to prison riots which are violently repressed by the authorities. In Venezuela, for example, killings of prisoners are frequently recorded, despite repeated warnings by national human rights organisations and calls for sub-human prison conditions to be improved. In Panama, in 1996, a riot against overcrowding in the Modelo Prison in the capital led to reprisals by the authorities. Dozens of prisoners were ill-treated and at least two lost their lives. In Ecuador, international standards

for the protection of detainees and prisoners are contravened by subjecting the prison population to unacceptable prison conditions.

Women's human rights are repeatedly trampled on in all Ibero-American countries. Victims of discrimination in daily life, women are also victims of numerous violations of human rights, including torture, ill-treatment and the indignity of sexual abuse.

In Peru women have been falsely charged with crimes linked to terrorism based on confessions made under torture, including rape.

Others have been killed or have "disappeared". In Guatemala, women defending human rights have been the subject of assaults and harassment. One member of the National Co-ordinating Body of Widows of Guatemala was sexually assaulted and beaten.

Government statements in favour of the protection of human rights made during the Fourth International Women's Conference in Beijing, in 1995, have not resulted in a genuine commitment to ensuring the effective protection of women's human rights.

In several countries, human rights defenders are repeatedly the target of harassment and attacks by the security forces or paramilitary groups. Defenders have suffered serious human rights violations in Brazil, Colombia, El Salvador, Honduras, Mexico, Peru and Venezuela. The authorities frequently describe them as "subversives" and "useless idiots", and organise campaigns to discredit them. Some of these campaigns practically constitute a call for their elimination. Red tape is often used to hinder or

prevent the work of these defenders. Legislative measures are being studied in several countries to limit or prevent action by human rights defenders. In Colombia several have been killed or have "disappeared" and many members of non-governmental organisations have been forced into exile. Other human rights defenders are now facing legal proceedings instigated against them by army officials. Even judicial officials or members of the Procurator's Office who have attempted to bring army officers to justice for serious human rights violations, by bringing charges against army officers, have received threats and been forced into exile. Others have been assassinated. In Honduras, relatives of the "disappeared" and human rights activists, as well as members of the Office of the National Human Rights Protection Commission and several prosecutors at the Public Ministry, have been threatened for trying to clarify extra-judicial executions and "disappearances". In 1996, the offices of one of Honduras' main human rights defenders were dynamited, and the Honduran government threatened to ban another non-governmental human rights organisation working with minors in custody. In Bolivia, Amnesty International has been concerned at the increase in acts of harassment and attacks on human rights defenders. In Cuba, numerous obstacles and government restrictions are placed in the way of human rights defenders such that they often have to operate semi-clandestinely; several journalists have had to go into exile following threats of imprisonment.

Amnesty International is also seriously concerned about the situation of internally displaced persons as well as asylum seekers. The vulnerable status of both these groups means they are in need of the effective protection of relevant international human rights standards. Colombia is witnessing large numbers of internally displaced people which swells day by day, while Panama, Ecuador and Spain have expelled asylum seekers or returned them to their countries of origin.

Added to the above is the impunity enjoyed by those who violate human rights, an impunity which is frequently sanctioned through the passing of amnesty laws. Amnesty laws have been passed in Argentina, Brazil, Chile, El Salvador, Guatemala, Honduras, Nicaragua, Peru and Uruguay. Many of these laws were introduced by the very same governments accused of violating human rights, as occurred in Chile. Frequently, amnesty laws have been justified on the grounds of national reconciliation, the transition to democracy, or as a means of solving situations of domestic armed conflict. However, history has shown the opposite to be true, as evidenced by the continued existence of "death squads" in Brazil and El Salvador. In the last two years, Peru and Guatemala have passed laws guaranteeing impunity for those who violate human rights. In so doing they have ignored not only the recommendations of the Inter-American Commission on Human Rights and the United Nations Human Rights Committee to repeal such laws but also the commitment, made in

June 1993 when they adopted the *Vienna Declaration and Programme of Action*, to «abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and to prosecute such violations, thereby providing a firm basis for the rule of law». It is a commitment which so far has not gone beyond official rhetoric.

As a phenomenon, impunity is not restricted to situations in which there is a return to institutional normality or to the resolution of conflict. It also occurs in regimes in which, outwardly, there is an appearance of institutional normality, such as in Colombia, Ecuador, Spain and Venezuela. Varied mechanisms are used in these countries to effectively hinder investigations into human rights violations, ensuring the perpetrators' impunity. One of the most evident mechanisms is the use of military and police courts, which makes it possible for members of the security forces involved in cases of "disappearances", extrajudicial executions, massacres, torture and paramilitary activities, to be brought before military or police judges. The impartiality and suitability of these courts for punishing such crimes have been questioned by United Nations human rights bodies and the Organization of American States. A further component in the arsenal of impunity mechanisms is the tolerant, even accommodating, attitude of civilian authorities towards members of the army or the police force who are involved in violations of human rights. For example, those responsible for

human rights violations are decorated or promoted to new posts of responsibility or to diplomatic office. The lack of a firm attitude by governments when it comes to purging the ranks of security bodies and punishing members who have committed human rights abuses, serves to undermine the protection of human rights.

Granting extensive powers to state security bodies and whittling away at protective human rights measures and guarantees, such as *habeas corpus*, are some of the mechanisms which are frequently used in different Ibero-American countries to ensure impunity.

The phenomenon of impunity ensures that human rights violations continue to be repeated and constitutes a violation of the State's obligation to investigate, judge and sentence those responsible for such violations. Impunity is a clear denial of justice and a serious infringement of the right to truth of the victims, their relatives and society in general.

Impunity also ensures that members of the security forces who sowed terror amongst the population and carried out summary executions, "disappearances" and torture, remain part of the state apparatus; that the doctrines which led to the daily practice of human rights violations remain unquestioned and continue to be taught at official security forces' training centres;

and that the factors which promote and trigger these human rights violations are not dismantled, neutralised and eliminated.

Amnesty International recognizes that the State is obliged to preserve law and order. However, the prevalence of impunity encourages the disintegration of the rule of law. Widespread concern over rising crime has been used as a pretext by the police to take justice into their own hands, and by the State to execute sentenced criminals. In such a climate, the perpetrators of torture, extrajudicial executions and "disappearances" seek to justify their crimes by stating that these forms of control are a lamentable, but unavoidable, consequence of the growing threat to public order. In some urban centres organizations have emerged which impart their own justice and impose their own sinister methods of regulating public order. Such organizations do not distinguish between public and private power or between ordinary crime and state repression. The "death squads", whose victims range from petty criminals to street children, are the most visible component of these organizations targeting the lives of those relegated to the margins of society. The lynching of delinquents by civilians in Guatemala, for example, is another facet of this phenomenon, the result of a widening acceptance of violence.

Public order cannot be preserved through illegal police killings, the use of the death penalty, the practice of torture or of "social cleansing" by "death squads". The politics of fear do not

provide security; rather, they degrade those societies which tolerate these abuses. Public security demands that the State abstain from violating the human rights of its citizens, that it protect them from such transgressions and ensure the functioning of a judicial system to whom all should be accountable and have equal access. In the long term, only the rule of law can firmly consolidate public order.

The term “democratic governability”, coined in recent years, is a concept devoid of any real meaning unless it is based on the values of human rights, justice and the rule of law. Human rights depend on justice being imparted equally to all, under the canons of the rule of law. Institutionalized and legally sanctioned impunity is tantamount to instituting a form of injustice as a means of regulating society; it means placing those responsible for human rights violations above the law. A system which is based on the rule of law but in practice undermines human rights and denies equal access to the law is unacceptable. Upholding the rule of law is irreconcilable with a system in which impunity undermines the protection of human rights and denies the right to justice.

Amnesty International urges the Heads of State and Government gathered at the Seventh Ibero-American Summit to adopt a clear and determined stance which will ensure:

1. the abolition of the death penalty throughout Iberoamerica and, pending such a measure, the suspension of all death sentences and executions;
2. that human rights violations, particularly torture, "disappearances", and extrajudicial executions, are punishable under criminal law; that those responsible for these human rights violations are prosecuted in civilian courts; that suitable compensation and redress is provided for victims and their relatives; and that the fate and location of "disappeared" persons is clarified;
3. effective recognition of the legitimate work of human rights defenders, providing them with legal protection necessary for the performance of their work, and that any interference with this is investigated and punished;
4. the immediate and unconditional release of all prisoners of conscience; the prompt and impartial trial of all political prisoners; and that the trial of civilians by special military and police courts is abolished;

5. *the end of impunity for human rights violators, by repealing the laws which make it possible, and abolishing all mechanisms which prevent full and independent investigations and the bringing to trial of those responsible for extrajudicial executions, torture, "disappearances", and other human rights violations, no matter how much time has elapsed since the commission of these abuses;*

6. *the right to asylum and to fair, impartial and exhaustive asylum hearings, and to refrain from forcibly returning asylum-seekers to countries where they may be at risk of human rights violations because of their ethnic origin, religion, nationality, social extraction or political opinions.*