

May 2001

REF: AMR 18/002/2001

BOLIVIA
TORTURE AND ILL-TREATMENT:
Amnesty International's Concerns

SUMMARY OF AMNESTY INTERNATIONAL'S CONCERNS
with regard to implementation of the United Nations Convention against Torture and Other
Cruel, Inhuman or Degrading Treatment or Punishment by the Government of Bolivia

I. Introduction

Amnesty International is submitting this summary of its concerns with regard to torture and ill-treatment in Bolivia to the Committee against Torture so that it can take them into consideration when in May 2001 it comes to examine the first report by Bolivia concerning its implementation of the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Convention against Torture) .

Over the last ten years successive Bolivian governments have undertaken various measures aimed at protecting fundamental human rights. These have included the establishment in 1993 of a Ministry of Justice with its own Department of Human Rights and the creation of an Ombudsperson's Office. Between 1994 and 1995, the Ministry of Justice set up an Ombudsperson's Office and a Human Rights Office in Chimoré, in the department of Cochabamba, in order to protect the human rights of peasants and community leaders who had been detained in that region as part of the policy to eradicate coca-leaf crops agreed with the United States of America.

In December 1997, under the current government, Law No. 1818 concerning the post of Ombudsperson was passed and in March 1998 the first Bolivian Ombudsperson, whose task under article 127 of the Constitution, is to "*ensure that human rights are protected, promoted and publicized*", was appointed. By August 2000, six Ombudsperson's offices were operating in the country.

In April 1999, Bolivia ratified the Convention against Torture which prohibits the use of torture and other forms of cruel, inhuman or degrading treatment or punishment. By doing so, and in compliance with article 2.1 of the treaty, the Bolivian authorities have reaffirmed their commitment to taking effective legislative, administrative and other measures to prevent acts of torture from taking place throughout the territory within its jurisdiction. Amnesty International very much welcomes this step but is concerned to note that Bolivia has not made a declaration under article 22 of the Convention recognizing "*the competence of the Committee [against Torture] to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of*

a violation by a State Party of the provisions of the Convention". Amnesty International hopes that such a declaration will be made at the earliest possible opportunity.

The obligations assumed by the Bolivian State as a result of ratifying the Convention against Torture were already incumbent on it under article 12 of the country's Constitution which reads: "*All types of torture, coercion, menaces or any form of physical or psychological violence are prohibited under penalty of immediate dismissal and without prejudice to any punishment to which those who inflicted, ordered, incited or allowed them to occur may be liable*", as well as under article 34 which states: "*Those who violate constitutional rights and guarantees shall be subject to prosecution by the ordinary courts*".

However, despite these positive constitutional provisions and other requirements of ordinary law, complaints that members of the security forces are persisting in using torture and other forms of cruel, inhuman or degrading treatment or punishment have continued. Amnesty International is concerned that the Bolivian authorities do not appear to have taken any kind of effective action to eradicate the use of torture and ill-treatment. The organization continues to be concerned that most allegations of torture and ill-treatment are not investigated and that, in cases when investigations are opened, progress is slow. In many cases where an investigation has been opened, even those which were reported several years ago, there is little or no progress, with the investigation often coming to a complete standstill.

The fact that investigation of torture complaints is inadequate and sometimes non-existent means that Bolivia is failing in its obligations under article 12 of the Convention against Torture. Amnesty International believes that all complaints of torture and ill-treatment should be investigated promptly and thoroughly. The absence of any effective public remedy to deal with such complaints makes it all the more easy for such unlawful practices to continue.

No national statistics exist with regard to the use of excessive force by the security forces, deaths in custody or torture complaints. Although it is difficult to establish how widespread violations by the security forces are, it has been possible, using information available in the national media and in reports published by non-governmental organizations, to determine a pattern of extensive and systematic abuse over a period of years. Such a pattern also appears to have been confirmed in the report of the Ombudsperson which registered a total of 5,378 complaints between April 1999 and March 2000, 34% of which were related to violations of personal security and integrity committed by the police, including ill-treatment and arbitrary detentions carried out without following proper procedures¹.

The information contained in this document covers just a few of the many cases of human rights violations recorded in Bolivia over the past ten years and illustrates the worrying state and often little known extent of the use of torture in Bolivia.

II. Reports of torture and ill-treatment

"the Ombudsperson has noticed once again that one of the rights which is being most violated, especially by police institutions, is the right of persons to security and integrity."
(Report given to the National Congress by the Ombudsperson in August 2000)

i) Situation in the region of El Chapare

Article 1.1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for

¹ Report of the Ombudsperson, Ana María Romero de Campero, on her second year in office covering the period 1 April 1999 to 31 March 2000.

such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Article 16.1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

Reports of torture and ill-treatment related to the situation in the area of El Chapare, in the department of Cochabamba, persist. Amnesty International continued to receive reports of human rights violations committed in that area in the last few months of last year. The organization also received reports that members of the combined forces [of the army and the police] unnecessarily raided homes and confiscated property from the inhabitants.

In regard to this, the Human Rights Committee expressed its concern about “*the high levels of violence against trade union members, at the intimidation by police officers of persons taking part in peaceful demonstrations*” and particularly about incidents which occurred in El Chapare.²

According to reports, when road blocks were set up between Cochabamba, Chimoré and Santa Cruz by coca-leaf producers in September of last year, combined forces of the army and the police apparently used excessive and indiscriminate force when trying to clear the roads. The peasants had reportedly resorted to this action to demand, among other things, that the government keep to the agreements it had made with them in October 1997 and May 1998 about implementing a program to develop alternatives to coca-leaf production.

Between 20 and 26 September the deaths of six people in different incidents were reported by non-governmental organizations and in national and international press reports. Over 80 people, including 29 soldiers, reportedly suffered injuries. Reports of ill-treatment and arrests in the towns of Cesarzama, Villa Tunari and Puente Roto, including the cases of at least three juveniles, were also received.

On 21 September, the mayor of Chimoré, Epifanio Cruz, and six other people were detained for several hours in premises belonging to the *Unidad Móvil para el Patrullaje Rural (UMOPAR)*, Mobile Rural Patrol Unit, where they were refused visits from members of the *Centro de Justicia y Derechos Humanos de Chimoré*, Chimoré Centre for Justice and Human Rights, a body dependent on the Ministry of Justice. It was reported, for example, that, according to a forensic report prepared by the Centre for Justice and Human Rights, **Epifanio Cruz** exhibited multiple contusions and bruising. In Villa Tunari, the secretary general of the *Federación Especial de Campesinos del Trópico*, Special Federation of Peasants from El Trópico, **Feliciano Mamani**, suffered injuries but, thanks to the intervention of the Ombudsperson, it was possible for him to be taken to the Urkupiña Clinic in Santa Cruz for medical treatment. There is no information to indicate that any kind of investigation has been opened into these incidents.

² Concluding Observations of the Human Rights Committee : Bolivia. CCPR/C/79/Add.74, 1 April 1997, par. 24.

ii) Attacks on human rights defenders

Article 2.1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Article 4.2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Human rights defenders have suffered harassment, threats and assault for documenting and publicizing human rights violations. For example, in July 1998, Father **Hugo Ortiz**, a Catholic priest and president of the *Asamblea Permanente de Derechos Humanos de Bolivia (APDH)*, Permanent Human Rights Assembly of Bolivia, in Caranavi, in the department of La Paz, was beaten by members of UMOPAR when he was on his way to a diocesan meeting. Other APDH officers have received threats. In 1999 **Adalberto Rojas**, president of the APDH in Santa Cruz, received threats after denouncing the ill-treatment inflicted on a group of people being held in custody by the *Fuerza Especial de Lucha contra el Narcotráfico*, Special Anti-Drug Trafficking Force. **Arturo Alessandri**, president of the APDH in Oruro, was threatened with prosecution by a local judicial official after he had objected to the unlawful detention of a juvenile. **Sacha Lorenti Soliz**, Secretary for Legal Affairs of the APDH, received a death threat in August 2000 after he had lodged complaints about human rights violations committed during the state of siege in April of that year and called for them to be independently investigated.

The Human Rights Committee has already noted with concern that human rights activists “*are subject to intimidation, thus facing serious obstacles in the legitimate exercise of their rights*”.³

Amnesty International has conveyed its concern about these incidents to the authorities. In the case of Sacha Lorenti Soliz, in November 2000 the Interior Minister gave Amnesty International information which had been prepared by the *Viceministro de Régimen Interior, Policía y Seguridad Ciudadana*, Deputy Minister of Internal Affairs, Police and Public Security, in which he asserted that the Interior Ministry had granted Sacha Lorenti Soliz “*all the guarantees prescribed in the Constitution of the Bolivian State*” and that “*he would instruct the relevant authority to carry out any investigation that the case warrants*”. Amnesty International is not aware of any investigation having been opened into the case or of any progress such an investigation may have made. Likewise, it has received no information to indicate that any of the other cases mentioned have been the object of any kind of investigation.

In one of the most violent attacks on the legitimate work of human rights defenders, **Waldo Albarracín**, the national President of the APDH, was abducted and tortured by police officers in January 1997.⁴ Eight men in plain clothes abducted Waldo Albarracín in La Paz. They blindfolded him and tied him up before driving him away in a vehicle while beating him about the head, ears and testicles and threatening him with death. A few hours later he was left seriously injured at the headquarters of the *Policía Técnica Judicial*, Judicial Technical Police, in La Paz. Throughout 2000 and so far this year, Waldo Albarracín and his family have continued to receive death threats.

The trial of four police officers in connection with this serious incident is still going on, with two of the officers concerned remaining on active service. In this respect, the Human Rights Committee has noted that “*members of the armed forces and other government officials who were involved in the most*

³ Concluding Observations of the Human Rights Committee : Bolivia. CCPR/C/79/Add.74, 1 April 1997, par. 16.

⁴ See “*Bolivia: Undermining human rights work*” (AI Index: AMR 18/10/97), May 1997.

*serious human rights violations have not always been dismissed, and continue to take advantage of their positions, thus reinforcing impunity within the State party.”*⁵

The United Nations Special Rapporteur on Torture, Sir Nigel Rodley, has also commented on this issue, recommending that “*Any public official indicted for abuse or torture should be suspended from duty pending trial*”.⁶ He has also recommended that “*Any public official indicted for infliction of or complicity in torture or ill-treatment should be suspended from duty*”.⁷ Prior to that, in 1996, the Special Rapporteur had included the following amongst his recommendations: “*Persons alleged to have committed acts of torture should be suspended from official duties during the investigation.*”.⁸

According to reports, in January 2001, a member of UMOPAR shot at the representative of the Ombudsperson’s Office in El Chapare, Dr. **Godofredo Reinicke**, and his assistant, **Silvano Arancibia**, as they were approaching the community of Nuevo Tacaparí in the department of Cochabamba to investigate reports of human rights violations. That same day, two representatives of the Ombudsperson’s Office had been refused access to the UMOPAR anti-drugs centre in the town of Chimoré for over an hour. The Ombudsperson reported what happened to the District Attorney’s Office which has reportedly opened an investigation into the incident.

iii) Torture and ill-treatment during compulsory military service

Article 2.1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Article 2.3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 4.1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

Article 4.2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Reports have been received that disciplinary sanctions amounting to torture have been imposed on soldiers on compulsory military service. Although the authorities have stated that any such claims would be investigated, in the majority of cases reported to Amnesty International or which have been reported in the Bolivian media or by non-governmental human rights organizations, there is no news of any investigations having been started or of their outcome. In 1996, it was announced that the Human Rights Commission of the Chamber of Deputies was submitting over 15 cases of torture and ill-treatment of conscripts in army barracks to the armed forces.

⁵ Concluding Observations of the Human Rights Committee : Bolivia. CCPR/C/79/Add.74, 1 April 1997, par. 15.

⁶ Report of the Special Rapporteur [on Torture] on Romania, 23 November 1999, E/CN.4/2000/9/Add.3, par. 57(k).

⁷ Report of the Special Rapporteur [on Torture] on Turkey, 27 January 1999, E/CN.4/1999/61/Add.1, par. 113(h).

⁸ Report of the Special Rapporteur [on Torture] on Chile, 4 January 1996, E/CN.4/1996/35/Add.2, Par.76(j).

One of those cases was that of **Wilson Pucho Alí**, a conscript at the First Air Base of the Bolivian Air Force who reported that in September 1996 he had been tortured at the El Alto military air base by three officers and two civilians because he had lost his gun. He was kept chained up for a week and immersed in water, beaten with a stick and subjected to mock execution while being kept hanging upside down. When taken to the Military Hospital, he reportedly exhibited widespread injuries and both of his ankles were broken. No news has been received of any investigation being opened into this case or if so, what the outcome was.

In her report to the National Congress in August 2000, the Ombudsperson expressed her concern about cases of this kind, saying that *“complaints were received about members of the Armed Forces because of attacks they had made on the physical integrity of others, especially conscripts carrying out their military service. The most moving example was that of soldier Roger Candia Vallejos who was brutally beaten by members of the Army at the Jordán de Riberalta Regiment, causing him grievous bodily harm”*.

On 30 August 1999, when Roger Candia was serving in the Jordán Battalion, a sergeant inflicted physical punishment on him by beating him with a stick in the back, the buttocks and the kidneys, resulting in lumbar trauma [injury to the lower back] and haematuria (the presence of blood in urine), because he had lost a blanket and a camouflage uniform. A week later, the conscript was admitted to the barracks' clinic suffering from bruising to the buttocks and pain in both lumbar fossae [both sides of the lower back kidney area]. His superior officer found out about the attack during the medical examination and the next day ordered him to be admitted to the Riberalta Hospital, from where he was later transferred to the COSSMIL Hospital in Riberalta and later, on 9 October, to the COSSMIL Hospital in Trinidad where he stayed until 15 November. Upon his return to the barracks of the Jordán Battalion, Roger Candia was again physically punished. Disciplinary action was taken against the officer who ordered the punishment but, despite the fact that this renewed punishment led to a deterioration in his state of health, the conscript was not given the medical care he required.

In January 2000, Roger Candia reported what had happened to him to the Ombudsperson's Office and to the human rights division of the Ministry of Justice. A few days later, he was again hospitalized suffering from severe injuries resulting from the blows, an infected wound to the thorax and depression. X-rays showed a linear fracture of the spine, probable contusion of the spinal cord and delayed movement of the nerves in the legs.

The Ombudsperson launched an investigation. From the information gathered, the Ombudsperson's Office found, among other things, that *“the Army General Command was institutionally responsible for the inhuman and degrading treatment suffered by Candia in military establishments and therefore has a duty to provide compensation and reparation to the victim”*. In March 2000 the Ombudsperson issued a directive containing a series of recommendations, one of which called on *“...the Minister of National Defence and the Commander-in-Chief of the Armed Forces to take action to ensure that such acts of ill-treatment and damage to the physical and psychological integrity of conscripts or subordinates do not recur and that the human rights of young men who are doing their legal duty by undertaking compulsory military service are protected”*.

According to the Ombudsperson's report, the *Tribunal Permanente de Justicia Militar*, Permanent Tribunal of Military Justice, started proceedings against the sergeant accused of beating Roger Candia but the outcome is not known. The Commander-in-Chief of the Armed Forces told the Ombudsperson that her directive had been complied with.

According to the information given to Amnesty International in November 2000 by the Interior Minister based on information supplied by the Deputy Minister of Internal Affairs, Police and Public Security, the Ministry of Defence, in compliance with the repeated recommendations made by the Ombudsperson, *“had instructed each force to immediately investigate any allegations of ill-treatment*

against conscripts as well as, if sufficient evidence was found, to start appropriate criminal proceedings.”

iv) Torture under the state of siege

Article 2.2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

In recent years when a state of siege has been declared, there have been reports of torture occurring in police and military establishments but it is not known whether such reports have been investigated and, if so, what the outcome was. In this context, many of those detained under the state of siege declared in April 1995, including several trade unionists, were subjected to ill-treatment, beatings and electric shocks in the first few hours of their detention.⁹ For example, **Crisólogo Mendoza** and **Modesto Condori**, two trade unionists who were detained in La Paz, reported that, while they were in detention, they were beaten by hooded individuals who stuck pins into their testicles and buttocks and threatened to kill them in order to force them to make statements against another trade union leader. As far as Amnesty International is aware, no investigation has been carried out into these reports. The state of siege had been declared following three weeks of demonstrations by the teachers' unions and a general strike called by the *Central Obrera Boliviana*, Bolivian Workers' Union.¹⁰

More recently, there were reports of arbitrary detentions and ill-treatment during the state of siege that was imposed between 8 and 20 April 2000. The state of siege had been declared following a series of demonstrations in protest at a government project for supplying water to the city of Cochabamba, in the department of Cochabamba, which meant that charges for the supply of drinking water would be increased. Trade union leaders and members of the *Coordinadora Departamental de Defensa del Agua y la Vida*, Departmental Coordinating Committee in Defence of Water and Life, were reportedly held in custody and while they were being detained, members of their families were beaten. In two cases in the department of La Paz, **Edwin Huanca** and **Bartolomé Flores** were detained by members of the army and taken to Viacha barracks where they were doused in water and given electric shocks. Attempts were also made to suffocate them and they were beaten with sticks. They were reportedly tortured to force them to make incriminating statements against themselves or trade union leaders. There has been no news of any investigation having been opened into these allegations.

In the same period juveniles were also reportedly detained by the security forces to try to make them inform against community leaders. In one case reported to Amnesty International, 16-year-old **David Goitia Benito** was detained by police in Cochabamba and taken to the premises of the *Grupo Especial de Seguridad (GES)*, Special Security Group, where he was tortured by several men who beat him with hoses and chains and broke his nose. According to another report, the army took brothers **Franz** and **Noel Guzmán**, aged 14 and 12 respectively, to the Achacachi barracks, in the department of La Paz,

⁹ Report compiled by the Human Rights Commission of the Chamber of Deputies entitled “*Vigencia y Respeto de los Derechos Humanos durante el ‘Estado de Sitio’*”, “Observation and Respect of Human Rights during the ‘State of Siege’”, 1995.

¹⁰ Under article 111 of the Bolivian Constitution, a state of siege is an emergency measure which may be declared by the Executive in order to maintain public order and which must be lifted after 90 days; if it is not lifted, it will expire unless Congress consents to its extension. The Interior Minister said that the Executive had a duty to maintain and defend internal order and that the measure had been necessary because it had become impossible to carry on talks with the trade union leaders. The state of siege was extended for a further 90 days in July 1995 and was lifted in October of the same year.

and held them in custody for a day. After being immersed in water and beaten, they were reportedly left in a state of shock. The authorities said that the juveniles were detained “for a period of 36 hours solely for investigation purposes” and denied that they were tortured.

v) Refoulement when there is a risk of torture: a breach of the principle of non-refoulement.

Article 3.1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

Article 3.2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Several political refugees and immigrants from Peru have reported that the Bolivian security forces, instead of protecting them, have subjected them to discrimination and harassment. In one recent case concerning Peruvians who were refugees in Chile, the Bolivian authorities returned them to Peru when they were on their way from Bolivia to Chile.

Rumaldo Juan Pacheco Osco and Fredesvinda Tineo Godos, a married couple, were detained in La Paz on 24 February 2001 by officials of the Bolivian *Servicio Nacional de Migración (SNM)*, National Migration Service, and handed over, together with their three children, to the Peruvian police. In Peru the couple were reportedly handed over to the *Sala Nacional Corporativa*, National Corporative Court, which deals with terrorism cases, to be brought to trial. The three children, all juveniles, who were with them when they were detained, are in Lima with relatives.

The couple had reportedly been detained in Peru in June 1991 in the district of Mirones-Lima in the course of a police operation to arrest members of the armed clandestine group *Sendero Luminoso*, Shining Path, allegedly involved in organizing a march in Lima. Reportedly, at the trial, it emerged that the positive results obtained from tests for gunpowder, which constituted the main evidence against Fredesvinda Tineo, were due to gunshot wounds to her hands and stomach. The two were acquitted and released on 8 April 1994 when they left the country for Bolivia before going on to Chile.

Amnesty International is concerned that the Bolivian Government do not appear to have followed the required procedures when returning the Pacheco-Tineo family to Peru. International law forbids the forcible return of anyone to a country where that person may be at risk. No country can forcibly return a person who has asked for protection without first of all allowing the person or persons concerned access to fair and appropriate proceedings during which they have the opportunity to explain why they fear being returned.

In September 1999, Amnesty International published a report entitled “*Peru: Legislation is not enough. Torture must be abolished in practice*” (AMR 46/17/99).¹¹ Over a year after the report was published, the organization continues to have serious concerns about the widespread use of torture and ill-treatment by members of the security forces in Peru.

Amnesty International is concerned that the Bolivian Government does not appear to have taken any steps to ensure that the physical integrity of Rumaldo Juan Pacheco Osco and Fredesvinda Tineo

¹¹ See also “*Peru: Torture continues unabated*” (AI Index: AMR 46/40/00, December 2000).

Godos would be protected and that they would not be in danger of being tortured upon their return to Peru and that, in sending them back, they have therefore disregarded their international obligations.

vi) Prison conditions and detention centres

Article 10.1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

Article 11. Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

“The highest number of examples of violation of security are to be found in the prison environment [...]. Article 6 of the Constitution safeguards personal dignity and states that it is inviolable and that its respect and protection are fundamental duties of the State. [...] Nevertheless, given that it is officials of the State itself who are responsible for acts which are damaging to their own personal dignity, there is a clear contradiction between the complaints received by the Ombudsperson and the above-mentioned article of the constitution.”

(Report of the Ombudsperson to the National Congress, August 2000)

In June and July 2000, during a visit to Bolivia by an Amnesty International delegation which included visits to nine prisons and detention centres, the delegates found that conditions in Bolivian prisons and detention centres fail to comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners and that they constitute cruel, inhuman and degrading treatment. Food and medical care are inadequate. In many cases, medical attention is provided by the prisoners themselves. Detainees are held in overcrowded conditions in dirty cells with hardly any heating or ventilation and with more than 35 people of the same sex sleeping on the floor without beds or blankets. The vast majority are forced to sleep on the floor, mattresses and blankets are not provided and sanitation is poor. There have been reports of prisoners being ill-treated by prison guards. In the detention centres known as *carceletas*, in the area of El Chapare and in the cities of Cochabamba and Santa Cruz, conditions are inhumane. There is no segregation between juvenile and adult detainees or between those awaiting trial and those who have been sentenced. Female detainees do not have the facilities they require to attend to their particular health needs and there are no special diets for pregnant women or for those who have recently given birth.

Alarming cases have been recorded in recent years giving rise to growing concern on the part of national and international human rights organizations. One such case is that of **Freddy Cano López**, a Peruvian citizen who was detained in May 1999 and held in custody at the Interpol headquarters in La Paz. While he was there, a fire reportedly occurred in his cell and the guards at first failed to respond to his cries for help; they eventually rescued him and took him to hospital from where he was transferred to Lima, Peru. He died there in June from the injuries he had received. His death caused an outcry at both national and international level and investigations were carried out into allegations that the fire had been started by the guards. In June, the Ombudsperson presented the conclusions of her investigation to the Human Rights Commission of the Chamber of Deputies. She confirmed that the constitutional rights of Freddy Cano López had been violated and recommended, among other things, that the Interpol cells be closed down. In July, the Commission ordered three police officers said to responsible for the

incident to be tried in the ordinary courts and also called for internal disciplinary proceedings to be taken against the national director of Interpol¹². The case is continuing.

The authorities do not always ensure the protection of detainees inside prison establishments and prisons have been the scene of acts of violence in which inmates have suffered at the hands of other prisoners. In August 1999, **10 Peruvian prisoners** had to be taken to hospital after they had been attacked by some two hundred Bolivian inmates in El Abra Prison in Cochabamba. The Ombudsperson ordered an investigation into the role played by the prison staff in the incident and referred the information to the District Attorney's Office for the relevant legal action.

The terrible prison conditions have been exacerbated by delays in bringing cases to court. Prisoners held in places known as *carceletas* in the zone of El Chapare and in Santa Cruz, Cochabamba and other Bolivian cities are left for months in subhuman conditions in a sort of legal limbo known as the 'judicial depository' (*depósito judicial*). There are no provisions for such a thing as a 'judicial depository' and nobody takes any responsibility for them. According to the Santa Cruz District Attorney, the term 'judicial depository' has no basis in law. Eighty percent of prisoners have not been sentenced and many of them are forced to rely on defence lawyers assigned to them by the courts who do not necessarily tell them what decisions have been taken with regard to their case.

Both the media and local non-governmental organizations have exposed the torture and the lack of adequate medical attention in the *carceletas*. One of the most recent cases is that of the death of **Isaac Mejía Arce**, a young man aged 19 who was detained in September 2000 in Chimoré under Law 1008 relating to the *Régimen de la coca y sustancias controladas*, Law to Regulate Coca and Controlled Substances. According to reports published in the national press and others provided by the APDH, Isaac Mejía Arce was held in the *carceleta* of Chimoré where twice a week he was subjected, by members of UMOPAR, to the torture method known as "*el arrastre*" ("dragging") in which two people sit on top of the victim while two others drag him along the ground. This type of torture is reportedly used in the early stages of detention as a means of obtaining information.

As a result of this treatment, Mejía Arce was coughing up blood. In the *carceleta* he was given medication for tuberculosis although he was not suffering from it. On 4 February 2001 he was taken in a coma to Viedma Hospital where he died on 16 February.

One of the cases of torture and ill-treatment in Bolivian prisoners which has caused greatest concern is that of the torture of two prisoners at the high security prison of San Pedro de Chonchocoro in La Paz. An Amnesty International delegation which was visiting Bolivia was able to see the two prisoners, **Carlos Alberto Simoes Junior**, who is Brazilian, and **Juan Carlos Caballero**, who is Peruvian, both of whom showed clear signs of torture. They were tortured, while being held down by the wrists and ankles, by a group of police officers, some of whom were hooded. The two prisoners showed clear signs of having been subjected to severe beating and had been held in inhumane and degrading conditions in a punishment cell known as "El Bote" in June 2000. They were held in isolation with no access to their relatives or lawyers. Guards refused to allow representatives of the Prison Pastoral Service, a body belonging to the Catholic Church, and the prison chaplain to have access to them and they also disregarded requests from the prisoners to be examined by a doctor. This situation went on until at least the end of July.

Conditions in "El Bote" are inhumane and degrading and are in breach of the United Nations Standard Minimum Rules for the Treatment of Prisoners. The cells measure two metres by one and a half metres, they are cold and damp and there are no beds or sanitation.

¹² Report of the Ombudsperson, Ana María Romero de Campero, on her second year in office covering the period 1 April 1999 to 31 March 2000.

According to information received by Amnesty International, the punishment cell known as “El Bote” was still in use as of October 2000. There is no information at the time of writing to indicate that “El Bote” has been closed down or that any kind of investigation has been opened into the torture inflicted on the two prisoners.

vii) Statements made under torture and openings for impunity

Article 15. Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Prompt and impartial investigation:

Article 12. Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 12 of the Bolivian Constitution prohibits torture and ill-treatment. However, cases of torture and ill-treatment inflicted under previous governments on political prisoners and members or suspected members of armed opposition groups as a means of obtaining information have still not been satisfactorily resolved.

It is a requirement of international laws and standards such as the *International Covenant on Civil and Political Rights (ICCPR)* and the *American Convention on Human Rights*, both of which have been ratified by Bolivia, that immediate and thorough investigations be carried out into any allegation of torture or ill-treatment and that those responsible be brought to justice. The Human Rights Committee, the body which monitors implementation of the ICCPR, has pointed out that, under article 7 of the Covenant, which relates to torture and cruel, inhuman or degrading punishment or treatment, complaints must be investigated quickly and impartially by the relevant authorities¹³. Any new government clearly has a duty to take such action with regard to acts committed under previous governments. From its work in seeking to put an end to torture, Amnesty International has found that failure to provide complainants with effective remedies, whether because existing procedures are inadequate or because they are unduly slow, contributes to its ongoing use.

Between 1989 and 1993, following a series of violent incidents allegedly carried out by armed opposition groups, several political prisoners were detained for being members or suspected members of such groups. Most of them were tortured and ill-treated during the initial phase of detention¹⁴ when they were held incommunicado, without access to lawyers, for a longer period than that permitted by the law and forced to make “confessions” which were obtained as a result of torture and ill-treatment and later accepted as evidence against them. The Bolivian authorities have not adopted any of the recommendations made as a result of the investigation carried out by the Human Rights Commission of the Chamber of Deputies into the human rights violations committed against these political prisoners (Report of the Human Rights Commission of the Chamber of Deputies entitled “*Denuncia de torturas a Ciudadanos Sindicados de Alzamiento Armado*”, “The alleged torture of citizens charged with armed insurrection”, published in July 1995).

¹³ UN document, General Observation 20, paragraph 14, HRI/GEN/1.

¹⁴ See *Bolivia: Awaiting justice: Torture, extrajudicial executions and legal proceedings*, AI Index: AMR 18/09/96, September 1996.

One of those people was **María Raquel Gutiérrez Aguilar** who was detained in La Paz in April 1992 in connection with the activities of an armed opposition group. In her testimony, María Raquel Gutiérrez Aguilar said that, after she was arrested, she was held hooded and handcuffed for four days in the Ministry of the Interior where she was whipped and given electric shocks to the genitals, neck and ears. She was forced to stay for several hours at a time in the position known as “*el chancho*”, “the pig” (bent forward with the head touching the ground and the hands tied behind the back). The day before she was due to appear before a magistrate and while being held incommunicado, María Raquel Gutiérrez Aguilar tried to commit suicide.

María Raquel Gutiérrez Aguilar was provisionally released in 1997 under the Bail Law (*Ley de Fianza Juratoria*). It is almost nine years since the case against her was opened and the proceedings have still not reached a conclusion. In July 2000, under the provisions of article 29 of the New Code of Penal Procedure, which relates to the time limits in which a criminal prosecution can be brought, María Raquel Gutiérrez Aguilar asked for the proceedings against her to be dropped.¹⁵ The request, granted by a lower court on 29 March 2001, will be reviewed by a higher court. Although the Human Rights Commission of the Chamber of Deputies documented in their report the torture inflicted on her and other persons arrested during the same period, and despite repeated appeals from Amnesty International, there has been no news of any investigation being opened into these cases.

More recently, in one of the examples cited in the August 2000 report by the Ombudsperson to the National Congress, in January 1999 during an inspection by the Cochabamba Ombudsperson of **cells belonging to the *Policía Técnica Judicial, Judicial Technical Police***, in Cochabamba, he noticed a man who showed signs of physical assault. When the man was interviewed, he said that he had been beaten by police and then, in the absence of a representative from the district attorney’s office or the defence lawyer assigned to him, put under psychological pressure to make an incriminating statement.

Once the investigation had been concluded, the Ombudsperson recommended, among other things, that the District Attorney “*should instruct representatives of the [District] Attorney’s Office assigned to the Judicial Technical Police that, under the provisions of articles 18 and 23 of the Law governing the [duties and responsibilities of the] Attorney General’s Office, they have a duty to supervise proceedings carried out by the Judicial Police and to actively participate and be present when statements are being taken*”. He also recommended that the District Attorney should “*order an investigation to proceed into the injuries suffered by the citizen who had been beaten*”.¹⁶

III. Summary of Amnesty International’s recommendations to the Bolivian authorities

Torture is a fundamental violation of human rights which has been condemned by the international community as an offence against human dignity and is prohibited under international law in all circumstances.

Based on the reports of torture it has received, Amnesty International believes that torture and ill-treatment can only be successfully eradicated if the national and departmental authorities and the

¹⁵ Code of Penal Procedure of March 1999: Article 29: The period for bringing a criminal prosecution shall lapse: 1. In eight years for offences for which the maximum legal prison sentence is six years or more. Article 33: The maximum duration of any trial, starting from the first action taken in the proceedings, shall be three years [...].”

¹⁶ Report of the Ombudsperson, Ana María Romero de Campero, on her second year in office covering the period 1 April 1999 to 31 March 2000.

judiciary take firm and decisive action. Amnesty International believes that it is vitally important for thorough and impartial investigations to be carried out into these types of reports, for the methods and results of any investigation to be made public and for those responsible to be brought to justice. The apparent failure on the part of the authorities to act in such situations not only produces the negative impression that such practices are tolerated but also encourages their recurrence.

The Human Rights Committee has already expressed its concern about *“the current legislation for combating impunity has proven to be ineffective in the identification, trial and punishment of those responsible for human rights violations, and in the payment of compensation to the victims”*. The Committee also expressed concern at *“the delays and failures of the process of law and at the non-compliance by the police with United Nations minimum standards”*.¹⁷

In its communications with the Bolivian authorities, Amnesty International has on many occasions included a set of recommendations on how human rights violations could be prevented and remedied. They include the following:

g The Bolivian authorities should demonstrate that they are totally opposed to torture. They must condemn it unreservedly wherever it occurs and make it clear to all law enforcement officials, military officials and members of other security forces that torture will not be tolerated under any circumstances.

g The Bolivian authorities should ensure that statements and other evidence obtained under torture can never be used in judicial proceedings except against a person accused of torture.

g The Bolivian authorities should send a clear message through the chain of command of the police and the armed forces that unlawful killings and all forms of psychological and physical torture and ill-treatment are prohibited and will be punished with the full weight of the law.

g The Bolivian authorities should ensure that all reports of torture and unlawful killings allegedly committed by agents of the State, or with their acquiescence, are diligently, thoroughly and impartially investigated and that those responsible are handed over to the courts.

In this regard, the Human Rights Committee, in its suggestions and recommendations, called for human rights violations to be investigated *“in order to bring to justice perpetrators of past and present human rights abuses”* and urged Bolivia to take action *“to bring to justice the perpetrators and to provide proper compensation to the victims, particularly with respect to continuing occurrences of torture and ill-treatment by the police and security forces”*¹⁸

g The Bolivian authorities should ensure that the methods used to carry out such investigations, as well as their conclusions, are made public in their entirety.

g The Bolivian authorities should ensure that torture victims and those for whom they are responsible have the right to receive immediate reparation from the State, including restitution, fair and appropriate compensation and any necessary medical attention and rehabilitation.

g The Bolivian authorities should ensure that, in the course of training all officials involved in guarding, interrogating or providing medical treatment to those deprived of their liberty, it is made clear that

¹⁷ Concluding Observations of the Human Rights Committee : Bolivia. CCPR/C/79/Add.74, 1 April 1997, par. 15.

¹⁸ Concluding Observations of the Human Rights Committee : Bolivia. CCPR/C/79/Add.74, 1 April 1997, par. 28.

torture is a criminal act and that they are informed of their duty to disregard any order they might be given to inflict torture.

g The Bolivian authorities at every level should ensure that standards relating to the use of force and firearms and the ban on torture and ill-treatment are fully incorporated into codes of conduct and training for law enforcement officials and those responsible for prisons and detention centres and that they are rigorously enforced.

This recommendation was echoed by the Human Rights Committee when it recommended that an education program be devised “*so that all segments of the population, in particular members of the army, security forces and the police, and members of the judiciary and lawyers, are better acquainted with international standards for the protection and observance of human rights and human dignity*”.¹⁹

g The Bolivian authorities should ensure that all detainees are informed of their rights without delay, including their right to lodge complaints about the treatment they receive and their right to have a judge rule on the legality of their arrest without delay.

g The Bolivian authorities should ensure that prison conditions comply with international standards for the treatment of prisoners and that the specific needs of members of particularly vulnerable groups are taken into account.

g The Bolivian authorities should ensure that, once in custody, all detainees are brought before an independent judicial official without delay and that they are given prompt and regular access to their relatives, lawyers and doctors. Torture frequently occurs when victims are being held incommunicado.

g The Bolivian authorities should instruct the security forces to comply with the provisions of the *Code of Conduct for Law Enforcement Officials* and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Such instructions should be made public.

g The Bolivian authorities should produce and publish national statistics on excessive use of force, including deaths in confrontations and in custody, and reports of torture and ill-treatment. No restrictions should be put on the availability of such information.

g The Bolivian authorities should protect human rights defenders and ensure that they are able to carry out their work by publicly declaring their support for the legitimate work of human rights defenders and condemning any harassment or attack to which they might be subjected by agents of the State or those acting with their consent.

g At the earliest possible opportunity, the Bolivian Government should make a declaration under article 22 of the Convention [against Torture] recognizing “*the competence of the Committee [against Torture] to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.*”

¹⁹ Concluding Observations of the Human Rights Committee : Bolivia. CCPR/C/79/Add.74, 1 April 1997, par. 33.

Appendix

Proposed questions to be put by the UN Committee Against Torture to the Government of the Republic of Bolivia on the occasion of the Committee's consideration in May 2001 of the Republic of Bolivia's initial report .

1. Does the Bolivian State compile and regularly make public comprehensive case information which could indicate the effectiveness of measures to increase accountability for human rights violations ?
2. If so, does the information identify by name and rank the officials acquitted or found responsible by a court of law of having ordered, committed or concealed crimes of torture or ill-treatment ?
3. Does the information indicate the punishment handed down by the court to those found responsible of these offences ?
4. What concrete measures have been and will be taken to sanction security forces responsible for human rights violations and what concrete steps will be taken to combat the lack of independent and thorough investigations into complaints of human right violations registered up to now, such as killings in the context of the eradication of coca leaf crops in the region of El Chapare and torture and ill-treatment in prisons and detention centres ?
5. What concrete steps are being taken by the government of Bolivia to address the overcrowding and current prison conditions which constitute cruel, inhuman or degrading treatment and to ensure that conditions of detention and imprisonment conform to international standards ?
6. What measures have been and will be taken to correct the lack of an adequate system for administering prisons, and the lack of a specialized corps of trained prison guards ?
7. What concrete measures have been and will be taken steps to provide safeguards during detention and interrogation and to ensure that all detainees are immediately informed of their rights, including the presence of a lawyer during interrogations and the right to lodge complaints about their treatment?
8. What measures have been put into effect to have judges investigate any evidence of torture and order the release of detainees if the detention is unlawful ?
9. What concrete measures are being taken, to reduce the large number of cases of prisoners without sentence and to prevent arbitrary detention ?
10. What concrete steps has the Government of Bolivia taken to guarantee that members of non-governmental human rights organizations are able to exercise their legitimate activities in connection with the protection and promotion of human rights ?
11. What concrete steps has the Government of Bolivia taken to thoroughly and independently investigate complaints of threats and harassment to human rights defenders and to bring to justice those found of threats, harassment and/or violence against human rights defenders ?

12. Bearing in mind the recent return to Peru of the Peruvian refugees, Rumaldo Juan Pacheco Osco and Fredesvinda Tineo Godos, what proceedings are followed by the Bolivian State to comply with the Convention relating to the Status of Refugees and to Article 3 of the Convention against Torture, ensuring that all relevant considerations are taken, including the existence in the State concerned of a pattern of gross, flagrant or mass violations ?