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BOLIVIA

A SUMMARY OF AMNESTY INTERNATIONAL'S CONCERNS related to the Bolivian Government's implementation of the International Covenant on Civil and Political Rights

Introduction

Since 1990 Amnesty International has recorded with increasing concern reports of human rights violations committed by members of the security forces against political detainees, trade unionists and peasants. More recently, human rights defenders have also been a target for threats and harassment in circumstances which indicate participation or acquiescence by members of the police.

Amnesty International's concerns in Bolivia in recent years include allegations of torture and ill-treatment of detainees by members of the security forces, killings by police suggesting possible extrajudicial executions and the failure of the Bolivian authorities to ensure full and effective investigations into these complaints. Incommunicado detention and internal exile of trade unionists and peasants in the context of demonstrations and general strikes have also been of concern to the organization. Further concerns include the fair trial rights of political detainees arrested between 1989 and 1993 as members or suspected members of armed opposition groups.

A number of measures have been undertaken during the present administration for the defence of basic rights such as the establishment of the Ministry of Justice in 1993, and within it the Human Rights Department, and the creation of the office of State Ombudsman introduced in the reformed Constitution of August 1994. Between 1994 and 1995, the Ministry of Justice opened a Public Defence Office and a Human Rights Office in Chimoré, Cochabamba Department, to protect the human rights of peasants and community leaders detained in the region in the context of the implementation of eradication of coca-leaf crops in accordance with agreements made with the USA. In spite of these positive measures, complaints of human rights violations and the lack of investigation into those complaints have continued. In February 1997 the Human Rights Office in Chimoré recorded 24 uninvestigated cases of human rights violations against peasants living in the area by members of the Ecological Police (*Policía Ecológica*) and the Mobile Rural Patrol Unit (UMOPAR) *Unidad Móvil de Patrullaje Rural*. In addition, the office of the State Ombudsman has not been established owing to the fact that the relevant legislation has not been considered by Congress.

Article 6 Right to Life

The right to life has been violated by agents of the state during operations by the security forces in the context of offensives against armed opposition groups and during operations by members of the UMOPAR in the countryside, implementing the eradication of coca-leaf crops and

conducting counter drug-trafficking operations. A high level of impunity for such human rights violations remains which in turn stimulates further abuses. Complaints by Bolivian non-governmental organizations and reports on such violations, prepared by the Human Rights Commission of the Bolivian Chamber of Deputies, (*Comisión de Derechos Humanos de la Cámara de Diputados*) are not thoroughly followed up by the judiciary and investigations are either not initiated into the complaints or, when initiated, their progress and outcome are unknown. (Report by the Comisión de Derechos Humanos de la Cámara de Diputados, “*Acción Policial y Muertes en El Chapare*”, published in September 1995).

i) On 18 August 1994 **Felipe Pérez Ortíz**, a 23-year-old peasant farmer living in the El Chapare region, died in suspicious circumstances at the hands of UMOPAR agents while they were carrying out a house-to-house search for illegal cocaine production (*pozas de maceración*) in the area. Representatives of the Parliamentary Human Rights Commission visited El Chapare to investigate the death. A post-mortem examination showed that he was badly beaten before his death and then shot in the mouth. Eight of the nine agents implicated in the killing were reportedly suspended from duty and detained pending further investigations. The ninth agent implicated, reported to be the one who fired the fatal shot, escaped. There is no information on the progress or outcome of the investigation.

ii) **Juan Domingo Peralta Espinoza** was shot on 20 July 1990 in La Paz when he was intercepted by members of the security forces. He died the same day at the Hospital John XXIII after members of the police had allegedly obstructed provision of medical attention. He was the brother of Johnny Justino Peralta Espinoza who was wanted at that time by the police for his alleged activities with the armed opposition group Zarate Willca Armed Liberation Forces (FAL-ZW), *Fuerzas Armadas de Liberación Zarate Willca*. Juan Domingo Peralta Espinoza was reportedly unarmed at the time he was shot and was not being sought by the authorities. In 1991 the authorities announced that an investigation had been initiated. In its 1995 report, the Bolivian Parliamentary Commission of Human Rights recorded that the progress of this investigation was not known by the police authorities and that there were no records of it being forwarded to the courts. (“*El curso de la investigación sobre esta muerte no es conocido por las autoridades policiales y tampoco ha sido remitido el caso a la justicia ordinaria*”).

The failure to conduct a thorough, prompt and impartial investigation of these killings is inconsistent with the obligations of the authorities under Principle 9 of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

Article 7 Prohibition of Torture

Torture and ill-treatment are prohibited by the Bolivian Constitution. Article 12 of the Constitution states that “All kinds of torture, coercion, exaction or any type of physical or moral violence are forbidden.” (*Queda prohibida toda especie de torturas, coacciones, exacciones o cualquier forma de violencia física o moral...*). However, allegations of torture and ill-treatment, during previous administrations, of political prisoners, members or alleged members of armed opposition groups, as a method of extracting information have remained unresolved.

International law and standards, including the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights, both of which have been ratified by Bolivia, require the prompt and thorough investigation of all allegations of torture or ill-treatment with those responsible be brought to justice. The Human Rights Committee, the body of 18 experts which monitors implementation of the ICCPR has explained that Article 7 of that treaty requires that complaints of torture and ill-treatment “must be investigated promptly and impartially by the competent authorities”. (General Comment 20, para.14, UN Doc. HRI/GEN/1). Clearly, a new government has a continuing obligation to take such action in relation to acts committed during previous administrations. In the light of Amnesty International’s experience in working to stop torture, it has found that failure to provide effective remedies for complainants, whether because of inadequate or unreasonably lengthy procedures, facilitate the continuing incidence of torture.

A number of political prisoners were detained between 1989 and 1993 as members or suspected members of armed opposition groups, following a series of violent incidents for which armed opposition groups claimed responsibility. Twenty-six political detainees remain in detention. Most of them were subjected to torture and ill-treatment during the initial period of their detention.¹ The Bolivian authorities have failed to adopt any of the recommendations of the investigation undertaken by the Parliamentary Human Rights Commission into the human rights violations committed against the political detainees. (Report by the Comisión de Derechos Humanos de la Cámara de Diputados, “*Denuncia de Torturas a Ciudadanos Sindicados de Alzamiento Armado*”, published in July 1995).

Two of them are **María Raquel Gutiérrez Aguilar** and her husband **Alvaro García Linera** who were arrested in April 1992 in La Paz in connection with the activities of an armed opposition group. In her testimony María Raquel Gutiérrez Aguilar stated that after her arrest she was kept at the Ministry of Interior hooded and handcuffed for about four days. She was whipped and subjected to electric shocks in the genitals, neck and ears. Alvaro García Linera stated that he was kept hooded and handcuffed, he was beaten, given electric shocks on the genitals and limbs for several hours at a time and had nails driven into his toes and finger-nails.

In recent years torture and ill-treatment of detainees in police and military installations continues to be reported. Investigations into such allegations are rarely initiated. Many of those arrested in April 1995 under the state of siege legislation, including trade unionists, were reportedly subjected to ill-treatment, beatings and electric shocks during the initial hours of arrest. For instance, **Crisólogo Mendoza** and **Modesto Condori**, two trade unionists arrested in La Paz in April 1995 under the state of siege legislation, alleged that while in detention they had been beaten by hooded individuals who pierced their testicles and buttocks with pins and subjected them to death threats to force them to give evidence against another leader. Amnesty International is not aware of any investigation initiated into their allegations.

The failure to conduct prompt, thorough and impartial investigations of complaints of torture violates Bolivia’s obligations under the ICCPR and the American Convention on Human Rights.

¹See *Bolivia - Awaiting Justice: Torture, extrajudicial executions and legal proceedings*, AI Index: AMR 18/09/96, September 1996.

Article 4 State of Siege, Article 9 Right to liberty and security of person

On 18 April 1995, scores of people were arrested by police without judicial warrants in La Paz and the city of Copacabana. There were reports of police raids on private houses around the country. The detainees were mainly members of Bolivian trade unions and foreign nationals attending a conference of coca-leaf growers from the Andean countries. A few hours after the mass arrests a state of siege was decreed giving the security forces powers of arrest without a judicial warrant and imposing a curfew.² (Report by the Comisión de Derechos Humanos de la Cámara de Diputados, “*Vigencia y Respeto de los Derechos Humanos durante el ‘Estado de Sitio’*”). The state of siege followed three weeks of demonstrations by teachers’ unions and the general strike called by the Bolivian Labour Confederation (COB) *Central Obrera Boliviana*.

The arrest procedures, followed before the state of siege was declared, seemed to contravene Article 9 of the Bolivian Constitution, which establishes that nobody can be arrested without a written order issued by a competent authority. Most of the 362 people officially recorded as detained were held in internal exile (*confinados*) in isolated and unhealthy locations around the country. They were released, some of them within days and the remainder in the following weeks.

Some of those arrested were reportedly tortured, in violation of Article 7 of the ICCPR and Article 5 of the American Convention on Human Rights, rights which may never be derogated from under any circumstances (Article 4 of the ICCPR; Article 27 of the American Convention on Human Rights). There were no effective procedures to challenge their detention or to obtain remedies for their detention, in violation of their right to have judicial guarantees essential to the protection of non-derogable rights -a right which may never be derogated from under Article 27 of the American Convention on Human Rights.

Article 14 Fair Trial

²Under Bolivia’s constitution the state of siege is an exceptional measure which the executive power may invoke in order to preserve public order. It must be lifted within 90 days or it will expire *ipso facto*. The Minister of Government stated that it is the duty of the executive to preserve and defend internal order and that the measure had been necessary as it had been impossible to maintain a dialogue with the union leaders. The state of siege was extended for a further 90 days in July 1995. It was lifted in October 1995.

Criminal proceedings brought against political prisoners,³ who have been charged in connection with the activities of armed opposition groups, have not been conducted in accordance with Bolivian law and international standards for fair trial, including Article 14 of the ICCPR and Article 8 of the American Convention on Human Rights. The detainees were held in unlawfully prolonged incommunicado detention during the initial period of arrest when they did not have access to defence counsel and were subjected to torture and ill-treatment to make “confessions”, in the absence of legal counsel. Such confessions may be considered as evidence against the accused, in violation of Article 14 (3) (g) of the ICCPR and Article 8 (2) (g) of the American Convention on Human Rights and the proceedings against them have not been completed within a reasonable time.

Article 14 of the Bolivian Constitution establishes that “ Nobody shall be judged ... nor shall they be obliged to testify against themselves on criminal matters, or against their blood relatives ...” (*Nadie puede ser juzgado ... ni se lo podrá obligar a declarar contra sí mismo en materia penal, o contra sus parientes...*)

Article 19 Freedom of Expression

There have been recent cases of attacks on and threats to human rights activists together with the practice of prosecuting them under criminal charges, in what appear to be attempts to inhibit their work. These cases must be promptly and thoroughly investigated to prevent any escalation of this problem.

i) **Waldo Albarracín**, president of the non-governmental human rights organization *Asamblea Permanente de Derechos Humanos*, was abducted and tortured in La Paz on 25 January 1997 by members of the police. He was blindfolded and subjected to beatings about the head, ears and testicles for several hours and threatened with death. He was subsequently taken to the headquarters of the Judicial Police (*Policía Técnica Judicial*) and placed in a cell. Owing to the physical injuries sustained in the attack, he remained in hospital for several days. Dr. Waldo Albarracín was subsequently presented with an arrest warrant. Amnesty International believes that any charges he may face could be related to recent declarations he made about an incident on 22 December 1996 in which nine people, including a police colonel, died in clashes between miners and police in Amayapampa, Potosí Department. Waldo Albarracín has publicly called for a full investigation into all the deaths.

An investigation into the attack on Waldo Albarracín has been initiated by the Commission of Constitution, Justice and Judicial Police of the Chamber of Deputies (*Comisión de Constitución, Justicia y Policía Judicial*). The Albarracín family has received telephone threats and experienced other forms of intimidation by unidentified individuals who are keeping members of the family under surveillance.

³Amnesty International advocates fair trials for political prisoners, who include those persons accused or convicted of an ordinary crime carried out for political motives. (See *Bolivia - Awaiting Justice: Torture, extrajudicial executions and legal proceedings*, AI Index: AMR 18/09/96, September 1996).

ii) In February 1997, **Juan del Granado**, President of the Human Rights Commission of the Chamber of Deputies, received anonymous telephone threats. As a President of the Human Rights Commission, Juan del Granado has documented and publicly denounced complaints of human rights violations. Amnesty International believes that the recent threats against him may be linked to his public condemnation of the abduction and torture of Waldo Albarracín.