

UA 10/96

Arbitrary Detention/Fear of Unfair Trial 19 January 1996

**ECUADOR** Juan Climaco CUELLAR LANZA (Colombian)  
Froilán CUELLAR LINARES (Colombian)  
Carlos Enrique CUELLAR URAPARI (Ecuadorian)  
Harold Herverth PAZ PAYAGUAJE (Colombian)  
José Otilio QUINAYAS CHICANGANA (Colombian)  
Carmen BOLAÑOS MORA [f] (Colombian)  
Henry MACHOA PAYAGUAJE (Colombian)

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The trial of the six men and one woman listed above is due to open before the *Tribunal de lo Penal de Tena*, Tena Criminal Court, on 31 January 1996. Amnesty International is concerned that the defendants' confessions, obtained under torture, may be used by the prosecution during the trial. In such an event the defendants will have been denied the fundamental right to a fair trial.

The seven, whose homes are in Ecuador near the river Putumayo, which marks the border between Ecuador and Colombia, have been accused of being implicated in the murder of 11 members of the Ecuadorian security forces who patrolled the river. The patrol was ambushed by a unit of the Colombian guerrilla movement, *Fuerzas Armadas Revolucionarias de Colombia*, FARC, Revolutionary Armed Forces of Colombia, in December 1993. Amnesty International does not believe they had any such involvement and considers their detention to be arbitrary. In the event of the Tena Criminal Court convicting one or more of them to terms of imprisonment, Amnesty International would consider them to be prisoners of conscience, whose imprisonment was politically motivated.

#### BACKGROUND INFORMATION

On 16 December 1993 a unit of the FARC ambushed a patrol of eight boats carrying at least 40 Ecuadorian police and soldiers. Between 17 and 21 December 1993 the Ecuadorian military detained some 30 people in connection with the attack, all of whom claimed to have been tortured or ill-treated by members of the Ecuadorian Army. Of the 30 victims, 19 were released without charge within days, and 11 were transferred into the custody of the police (see *Ecuador: Colombians Tortured and threatened with death*, AI Index: AMR 28/01/94, February 1994).

In April 1994 the 11 testified to having been tortured while in military and police custody. The following December the *Ministro Fiscal de Pichincha*, Pichincha State Prosecutor, issued a report to the *Corte Superior de Quito*, Quito High Court, acknowledging that the accused had been tortured by members of the Ecuadorian Army.

In March 1995 the Quito High Court held a preliminary hearing in relation to the 11 people who faced criminal charges in connection with the ambush (see *Ecuador: The Putumayo case - defendant's statements obtained under torture may possibly be used as evidence*, AI Index AMR 28/03/95, March 1995). The following July, the Quito High Court dismissed the case against four of the accused and sent the seven listed above for trial before the Tena Criminal Court.

In May 1995 the *Grupo de Trabajo sobre detención arbitraria de las Naciones Unidas*, United Nations Working Group on arbitrary detention, declared arbitrary the detention of the 11 people charged with criminal offences in relation to the ambush, including the seven listed above. The Working Group stated that

their detention is arbitrary by virtue of being in contravention of articles 5, 9, and 11 of the Universal Declaration of Human Rights and articles 7, 9, 10, and 14 of the International Covenant on Civil and Political Rights which Ecuador has ratified.

The case against the people charged with criminal offenses in connection with the ambush -- widely known as the Putumayo case -- has become a human rights test case for Ecuadorian human rights defenders. Some 20 Ecuadorian and regional human rights groups and other non-governmental organizations (NGOs), six of them linked to religious based groups, have taken up the case of the accused, arguing that the defendants are innocent and testifying that none of them have any links whatsoever to the FARC. The NGOs have come together under a *Comité Coordinador*, Coordinating Committee, in a campaign which is calling for the release of the seven who face trial. Many of the NGO testimonies have been provided by religious missionaries who have worked closely with the accused and their families over a number of years.

In July 1995 a delegate of Amnesty International visited Ecuador and had the opportunity to evaluate the claims made in favour of the accused by a wide range of human rights activists, including two who were attached to a Carmelite mission working with the accused and their families immediately prior to the ambush in December 1993.

**RECOMMENDED ACTION: Please send telexes/faxes/express/airmail letters in Spanish, English or your own language:**

- expressing concern that the statements made under torture by the defendants in the Putumayo case may be used as evidence against them at their forthcoming trial, which is expected to open before the Tena Criminal Court on 31 January 1996;
- expressing concern about the arbitrary detention of the 11 persons implicated in the Putumayo case, including the seven who are about to be tried before the Tena Criminal Court;
- noting that the United Nations Working Group on arbitrary detention has stated that the 11 persons charged with criminal offences in the Putumayo case, including the seven persons listed above, have had their right to an impartial trial contravened, as enshrined in international fair trial standards;
- stating that Amnesty International considers the seven prisoners listed above to be prisoners of conscience who have not advocated or used violence, and whose detention appears to be politically motivated;
- calling for the immediate and unconditional release of the seven prisoners who face charges before the Tena Criminal Court.

**APPEALS TO:**

Dr. Sixto Durán Ballén  
 President of the Republic of Ecuador  
 Palacio de Gobierno  
 García Moreno 1043  
 Quito, ECUADOR

**Telex: 22375/22201 prerep ed**

**Fax: + 5932 580142 / 580750 / 580716**

**Salutation: Dear Mr President/Senor Presidente**

Dr. Fernando Casares  
 Ministro Fiscal de la Nación  
 Robles 731 y Av. Amazonas

Quito, ECUADOR

**Telegrams:**

**Fax: + 5932 560355**

**Salutation: Dear Attorney General/Senor Ministro Fiscal**

**COPIES TO:**

**Human Rights organization**

Comité Coordinador (Caso Putumayo)

c/o CARDEV

Apartado 17-03-1469

Quito, ECUADOR

and to diplomatic representatives of Ecuador accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 1 March 1996.