

18 January 1999

Further information on UA 10/99 (AMR 28/01/99, 15 January 1999) - Human rights in jeopardy**ECUADOR Potential prisoners of conscience**

Amnesty International is concerned that provisions contained in an official edict, issued in connection with the 60-day state of emergency declared on 7 January 1999 by the Government of Ecuador in the Province of Guayas, could also lead to the detention of persons whom Amnesty International would consider to be prisoners of conscience.

On 11 January 1999, the Regional Security Committee of the Government of the Province of Guayas (*Comité de Seguridad Regional de la Gobernación de la Provincia del Guayas*), responsible for overseeing the operational implementation of the state of emergency, issued Edict No.1 (*Bando No.1*)

Article 1 of the Edict states: "Those persons who commit the following infractions will be brought to trial under provisions in the Military Penal Code: (a) Those persons aged 18 to 60, without distinction as to their sex or condition, who refuse to lend their individual services for the purposes of mobilization; (b) Those persons who refuse or oppose the mobilization of public or private resources; [...]." (*El Artículo 1 afirma: "Serán juzgadas con sujeción a lo dispuesto en el Código Penal Militar las personas que cometieren las siguientes infracciones: (a) Las personas que no prestaren sus servicios individuales para los fines de movilización, sin distinción de sexo o condición, comprendidos entre las edades de 18 a 60 años; (b) Las personas que se negaren u opusieren a la movilización de los recursos públicos y privados; [...]"*)

Should Articles 1(a) of Edict No.1 be implemented in practice, it would effectively place those civilians who are mobilized under the command of the security forces. This is because Edict No.1 is directly linked to the 60-day state of emergency which invoked Ecuador's National Security Law (*Ley de Seguridad Nacional*).

Amnesty International believes the above articles to be sufficiently imprecise such that those civilians who, as conscientious objectors, peacefully "refuse to lend their individual services for the purposes of mobilization", or who peacefully "oppose the mobilization of public or private resources", could be detained and taken to trial before a military court. In the event of such detentions, Amnesty International would consider the detainees to be prisoners of conscience and would call for their immediate and unconditional release.

BACKGROUND

In addition to bringing civilians before military courts when they are alleged to have committed offences (*infracciones*) referred to under Articles 1(a) and (b) above, Edict No. 1 also invokes the jurisdiction of the military justice system to try civilians alleged to have committed offences under Articles 1(c), (d) and (e).

These, respectively, refer to persons who refuse or oppose the inspection of homes, locales or business premises (*domicilio, locales o comercios*); those who attack or oppose the authorities or members of the security forces; and those who bear arms without a permit.

Ecuador's Constitution, under Article 23(27), guarantees the right to a fair and prompt trial and, in order to uphold this guarantee, under Article 24(11) states, *inter alia*, that "No person may be diverted from being tried by a competent judge..." ("*Ninguna persona podrá ser distraída de su juez competente...*").

Should civilians be tried under the jurisdiction of a military court for offences committed under the terms of Edict No.1 referred to above, Ecuador would be contravening Principle 5 of the United Nations (UN) Basic Principles on the Independence of the Judiciary which states: "Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that did not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals." ("*Toda persona tendrá derecho a ser juzgada por los tribunales de justicia ordinaria con arreglo a los procedimientos legalmente establecidos. No se crearán tribunales que no apliquen normas procesales debidamente establecidas para sustituir la jurisdicción que corresponda normalmente a los tribunales ordinarios*").

FURTHER RECOMMENDED ACTION: Please send faxes/express airmail letters in Spanish or in your own language:

- noting that on 11 January 1999, the Regional Security Committee of the Government of the Province of Guayas (*Comité de Seguridad Regional de la Gobernación de la Provincia del Guayas*), issued Edict No.1;
- expressing concern that Articles 1(a) and (b) of Edict No.1 are sufficiently imprecise such that those civilians who peacefully do not comply or oppose them could be detained and taken to trial before a military court;
- stating that in the event of such detentions, Amnesty International would consider the detainees to be prisoners of conscience and would call for their immediate and unconditional release;
- noting that the Constitution of Ecuador, under Article 23(27), guarantees the right to a fair and prompt trial and, in order to uphold this guarantee, under Article 24(11) states, *inter alia*, that "No person may be diverted from being tried by a competent judge...";
- drawing the attention of the authorities to the United Nations Basic Principles on the Independence of the Judiciary, including Principle 5 calling for the right for everyone to be tried by ordinary courts.

APPEALS TO:

President of the Republic
 Presidente Jamil Mahuad Witt
 Palacio de Gobierno
 García Moreno 1043 y Chile
 QUITO
 Ecuador

Salutation: Dear Mr. President/Estimado Sr. Presidente

Faxes: + (00 593 2) 580-735/580-774/580-142

COPIES TO:

Human Rights Organization
 Comisión Ecuménica de Derechos Humanos (CEDHU)
 Carlos Ibarra 176 y 10 de Agosto

Edificio Yuraj Pirca
Piso 9
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 1999.