

EXTERNAL (for general distribution)

AI Index: AMR 29/10/92

Distr: UA/SC

UA 359/92

Legal/Medical Concern

17 November 1992

EL SALVADOR: Adolfo AGUILAR PAYES, sociology student

Amnesty International is concerned about the legal and medical situation of political prisoner Adolfo Aguilar Payes, currently detained in the Centro Penal "La Esperanza" de San Luis Mariona, a prison in San Salvador. He has been on hunger strike for over 30 days to protest at being held for more than three years without trial and is said to be in a poor condition with kidney and urinary infections. He is reported to have been visited by an independent doctor.

Adolfo Aguilar was arrested on 23 July 1989 at a seminary while he was visiting his brother. During the three days he was held by Treasury Police he claims he was repeatedly beaten, given electric shocks and a hood impregnated with lime placed over his head.

When brought before a court, he was remanded in custody for his alleged participation in the murder of two members of a right-wing group in 1989. However, it would appear that the only evidence linking him to these crimes is an extrajudicial statement drawn up while he was held by police. When brought before the court, three days after his arrest, Adolfo Aguilar stated that police had forced him to sign a paper which he had not been allowed to read. He denied the contents of the statement, including allegations that he belonged to an armed opposition group. Under Salvadorian law, extrajudicial statements extracted under duress are not admissible as evidence.

There have been numerous other irregularities reported in the case. For example, when in August 1991 the court first prepared the case for trial, the extrajudicial statement which he was forced to sign while still incommunicado in police custody was included in the file, but his statement refuting the charges was not. A doctor's report which noted swellings in different parts of the body apparently resulting from the beatings was also omitted.

The trial date was originally set for 28 July 1992 but was suspended by the court "because there has been negative publicity around the case and this could influence the spirit of the jury." Defence lawyers tried unsuccessfully to have this decision reversed on the grounds that it had no legal basis.

On 10 November, Adolfo Aguilar's defence lawyer submitted another petition arguing that the court had exceeded the 120 day limit between instituting proceedings and holding a trial. Reports just received indicate that the lawyers have been informed the selection of the jury will take place around 19 November.

BACKGROUND INFORMATION

Most political prisoners in El Salvador were released following the Law of National Reconciliation promulgated in February 1992. However, the law excluded those sentenced by a jury and those eventually found by a Commission of Truth to have participated in serious acts of violence since 1980. The Commission of Truth was set up to investigate past human rights violations - including those committed by armed opposition groups - following the signing of peace accords in January 1992. However, it is not due to issue its report until early 1993, and has no powers of prosecution.

Page 2 of UA 359/92

RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters either in Spanish, English or in your own language:

To the Justice Minister, Procurator for Human Rights and Prison Director:

- expressing concern that Adolfo Aguilar Payes has been held without trial since 1989 and noting that he has been on hunger strike for more than 30 days;

- requesting information about his current medical state and seeking assurances that he is receiving all necessary medical care;

To the Justice Minister and the Procurator for Human Rights ONLY:

- urging that he be given a prompt and impartial trial in accordance with internationally-recognized standards;

- expressing concern that the only evidence against him appears to be an extrajudicial statement which he was forced to sign without being able to read it;

- requesting full investigations into his allegations of torture and reported irregularities in the legal proceedings against him.

APPEALS TO

1) Justice Minister:

Dr. René Hernández Valiente
Ministro de Justicia
Ministerio de Justicia
Ave Masferrer No 612-b
San Salvador
El Salvador

Salutation: Sr. Ministro / Dear Minister

Telegrams: Ministro Justicia, San Salvador, El Salvador

Faxes: + 503 232611

2) Procurator for Human Rights:

Dr. Carlos Molina Fonseca
Procurador para la Defensa de
los Derechos Humanos
San Salvador
El Salvador

Salutation: Sr. Procurador / Dear Dr. Fonseca

Telegrams: Procurador de DDHH, San Salvador, El Salvador

Faxes: + 503 712886

3) Prison Director:

Director

Salutation: Sr. Director / Dear Sir

Centro Penitenciario "La Esperanza"

Calle a Cantón Mariona

Mejicanos

San Salvador, El Salvador

Telegrams: Director, Centro Penitenciario Mariona, San Salvador El Salvador

COPIES OF YOUR APPEALS TO:

Human Rights Organization:

Comisión de Derechos Humanos de El Salvador (CDHES)

Urbanización La Esperanza

Pasaje 1, No 119

San Salvador, El Salvador

Faxes: + 503 259906

and to diplomatic representatives of El Salvador accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 29 December 1992.