

HONDURAS

Human rights violations against children - UPDATE

In October 1999 Amnesty International published the report, 'Honduras: Human rights violations against children' (AMR 37/11/99) detailing the cases of Alexander Obando Reyes, 17, reportedly killed by a police officer on 10 April 1999, and Noé Alejandro Alvarez Ramírez, 14, allegedly killed by a prison guard on 21 May 1999.

Since then, Amnesty International has continued to receive information about serious human rights violations against children in Honduras. The persistence of such abuses highlights the failure of the authorities to adequately train law enforcement officials, to investigate reported abuses in which state agents are allegedly involved, and to effectively prosecute those responsible.

The failure to prevent, then to properly investigate and punish such crimes, suggests a degree of toleration of abuses against children, and in particular those who are marginalised by society such as minors who work and/or live on the streets. Impunity has become ingrained in the justice system in Honduras.

Amnesty International has received further information about the case of Alexander Obando Reyes, and information about two other children reportedly killed by law enforcement officers and one who died after he failed to receive medical attention in custody. In total, Amnesty International has documented seven cases of minors killed by members of the Honduran security forces since April 1999. Actual numbers may be higher.

ALEXANDER OBANDO REYES

According to reports, a witness has identified the police officer responsible for the killing on 10 April 1999 of Alexander Obando Reyes, 17. In addition, a ballistics test showed that the bullets which killed the minor came from the rifle assigned to the identified officer from the National Preventative Police, *Policía Nacional Preventiva* (PNP). The officer reportedly fled the scene of the crime, "deserted" the police force 15 days later, and has not been seen since.

Six prosecutors from the Public Ministry's Office of the Special Prosecutor for Human Rights, *Fiscalía Especial de los Derechos Humanos del Ministerio Público*, have been involved in the case. Despite this, and the evidence which identifies the police officer, no arrest warrant has been issued to date.

Amnesty International's further concern:

- ▭ despite evidence implicating a police officer in the killing of Alexander Obando Reyes, no-one has been arrested and the investigation appears to have stalled.

ANTONIO RAMÓN CALERO DÍAZ

On 24 November 1999, Antonio Ramón Calero Díaz, 17, was shot by an officer of the Criminal Investigations Unit, *Departamento General de Investigación Criminal* (DGIC). After nine days in hospital, the child died on 3 December as a result of his wounds.

According to reports, on 23 November Antonio Ramón Calero Díaz had been detained by officers from the police station 'Los Pinos' for suspected theft, and was kept in custody for one night in the DGIC in Comayagüela.

On 24 November, while being driven back from the Office of the Special Prosecutor for Minors, *Fiscalía del Menor*, the boy jumped out of the vehicle and ran off. Another officer from the DGIC, who was passing by, chased Antonio Ramón Calero Díaz and fired what he claimed to be "warning" shots. The boy was hit twice: in the left leg and the abdomen.

On 8 December 1999 Amnesty International wrote to the Attorney General of Honduras, *Fiscal General de la República*, Dr. Roy Edmundo Medina, expressing concern at the killing of Antonio Ramón Calero Díaz and asking for information about measures taken to investigate the case. To date there has been no reply.

On 21 February 2000 an arrest warrant was issued for the officer involved on the charge of murder. However, according to reports the Public Ministry's Office of the Special Prosecutor for Human Rights, *Fiscalía Especial de los Derechos Humanos del Ministerio Público*, has successfully appealed this, altering the charge to abuse of authority. At present, the officer is detained in the DGIC awaiting trial.

Amnesty International's concern:

- ▭ the use of firearms by a police officer against an unarmed minor who did not present any threat to the police or anyone else;
- ▭ that so-called "warning" shots caused the death of Antonio Ramón Calero Díaz;
- ▭ that the police officer allegedly responsible has reportedly been charged with abuse of authority, and that more serious charges have been dropped.

Antonio Ramón Calero Díaz, in hospital after being shot
Alianza

© Casa

EDY NAHUM DONAIRE ORTEGA

On 21 January 2000 Edy Nahum Donaire Ortega, 17, was killed by a police officer.

He had been detained by officers from the Municipal Headquarters of the National Police of La Libertad, *Policía Nacional de la Jefatura Municipal de La Libertad*, in Comayagua on 19 January for alleged theft. He was then illegally held in the police station in San Antonio de la Cuesta, municipality of San Jerónimo, Comayagua, for 23 hours. The law prohibits the detention of minors in adult detention centres such as police stations.

In the early hours of 21 January, Edy Nahum Donaire Ortega was being taken back to the police station, after appearing before the local judge, when he escaped. Three officers from the National Preventative Police, *Policía Nacional Preventiva*, pursued the boy in a patrol car towards the village of La Libertad.

According to his own statement, the officer involved had become separated from his two colleagues when he came across Edy Nahum Donaire Ortega, who was unarmed. The police officer fired what he claimed to be a “warning shot” into the air. However, the bullet entered the boy’s legs, severing an artery. He died from loss of blood.

The Justice of the Peace of San Jerónimo ordered the detention of the police officer in question on a charge of murder. At present the officer remains in custody in the Departmental Headquarters no.3 of Comayagua, *Jefatura Departamental #3 de Comayagua*. However, according to reports the investigation into the circumstances of the killing has been inadequate and the case has still not been brought before court.

Amnesty International’s concern:

- ▮ the use of firearms by a police officer against an unarmed minor who, according to all reports, did not present any threat to the police or anyone else;
- ▮ that so-called “warning” shots into the air should have entered Edy Nahum Donaire Ortega’s legs, severing an artery and causing his death;
- ▮ Failure of the judicial process. Investigations and the proceedings in relation to the killing of Edy Nahum Donaire Ortega have reportedly been inadequate and crucially have not resulted in the responsible being brought to justice.

FRANCISCO JAVIER ESPINOZA

On 28 January 2000 17-year-old Francisco Javier Espinoza, a street child, died in custody after the police failed to provide medical attention following a severe beating by a bus driver and conductor in Tegucigalpa.

On the morning of 28 January the bus driver and conductor had chased the youth after he allegedly stole some earrings from a passenger. When they caught him they reportedly beat him over the head with a metal tube.

At 11:30am the conductor took Francisco Javier Espinoza to the police station Post No. 6 in Colonia Kennedy, accusing him of theft, and the boy was taken into custody. After some hours he was transferred to the Regional Police station No. 1. However, despite profuse bleeding the boy did not receive any medical attention in either police station, where he remained in the cells for more than eight hours.

At about 8pm, Francisco Javier Espinoza went into convulsions, reportedly due to his head injuries. Police officers placed him in the back of a pick-up truck and took him to the Teaching Hospital, *Hospital Escuela*. Despite the boy’s serious condition, hospital medical

staff (including two doctors) reportedly refused to treat him and suggested that he was merely under the influence of alcohol or drugs. Francisco Javier Espinoza died en route back to the police station. The Chief of the Metropolitan Police reported that the cause of death was head injuries (*trauma encéfalo-craneano*).

It should be noted that anyone reported to have had convulsions requires urgent medical attention to find the cause, particularly if there is a history of head injury. Whether the person was believed to be under the influence of drugs or alcohol should be irrelevant to the medical attention provided.

According to reports, there has been an investigation by the DGIC, including questioning the bus driver and conductor, the police officers and the medical staff involved. The case has been submitted to the Prosecutor's Office in the First Criminal Court in Tegucigalpa, *Fiscalía del Juzgado Primero de lo Criminal*.

However, it is not clear whether this investigation will lead to criminal charges against those responsible. At present no-one has been arrested and the case has still not been presented before the First Criminal Court, *Juzgado Primero de lo Criminal*. This is allegedly because the Department of Forensic Medicine, *Departamento de Medicina Forense*, has not issued the official medical report determining the cause of death. Meanwhile, the police officers who failed to meet their responsibility to provide adequate medical care for Francisco Javier Espinoza reportedly remain on active duty. These bureaucratic delays are one of many weaknesses in a judicial system which presents major obstacles to the prosecution of those allegedly responsible for human rights violations.

Amnesty International's concern:

- ↯ Francisco Javier Espinoza did not receive medical attention during some 8 hours in two different police stations in Tegucigalpa, Post No. 6 in Colonia Kennedy and the Regional Police station No. 1, despite having visibly serious wounds to the head from a severe beating;
- ↯ the authorities are failing to act effectively and promptly to prosecute those responsible for the death of Francisco Javier Espinoza.

Francisco Javier Espinoza

© Casa Alianza

CONCLUSIONS AND RECOMMENDATIONS

Amnesty International calls on the Honduran government to promptly and fully implement the following recommendations.

1. Use of firearms

Firearms were used by law enforcement officials in the killings of Alexander Obando Reyes, Antonio Ramón Calero Díaz and Edy Nahum Donaire Ortega. None of these minors were armed, nor did they pose a threat to the officer involved or anyone else. According to reports, no warnings were given prior to the use of firearms in these cases. This is a clear violation of international standards adopted by the United Nations:

▲ **Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

Principle 4: “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result”.

Principle 9: “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life”.

Principle 11: “Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

(e) “Provide for warnings to be given, if appropriate, when firearms are to be discharged”.

▲ **Code of Conduct for law enforcement officials**

Article 2: In the performance of their duty, law enforcement officials shall respect

and protect human dignity and maintain and uphold the human rights of all persons.

Article 3: Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

The official Commentary in the Code of Conduct states: "The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children."

- ↪ **The authorities must clarify the circumstances of all arbitrary killings , such as those of the minors Alexander Obando Reyes, Antonio Ramón Calero Díaz and Edy Nahum Donaire Ortega, with thorough investigations in order to establish criminal responsibility.**
- ↪ **All law enforcement officers must receive training in the use of firearms in accordance with the United Nations Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The practical implementation of this training must be closely monitored.**
- ↪ **The government should adopt and publish a code of conduct for all law enforcement agents. This code should conform to the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It should also include special instructions on the treatment of minors, in accordance with the Convention on the Rights of the Child.**
- ↪ **As stated in the Code of Conduct for Law Enforcement Officials, every effort should be made to exclude the use of firearms, especially against children.**

2. The right to medical care

Police officers in two different stations failed to ensure that Francisco Javier Espinoza received medical attention while in custody. The boy was visibly wounded from being beaten about the head with a metal tube.

- ↪ **The authorities must ensure compliance with the Code of Conduct for law enforcement officials, which in Article 6 states: "Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required."**

3. Impunity

No-one has been brought to justice in any of these cases of serious human rights violations due to grave shortcomings in the judicial process, including long delays. Amnesty International is concerned that even when those accused of abuses are detained, they are rarely brought to trial or sentenced. There is also concern at reports that the police officer allegedly responsible for the unlawful killing of Antonio Ramón Calero Díaz has been charged with abuse of authority, and that more serious charges have been dropped.

- ↪ **The authorities must ensure that thorough, prompt and impartial investigations of all suspected human rights violations are carried out, and that those responsible are effectively prosecuted.**

4. The right to reparation

According to reports, the state has not provided any reparation following the deaths of these four minors.

- ↪ **The state is obliged to provide fair and adequate reparation, including financial compensation, to the relatives of victims of human rights violations.**

5. The rights of the child

The serious abuses which have resulted in the deaths of these four minors, and the grave shortcomings in the judicial processes which followed, suggest a lack of will on the part of the authorities to address human rights violations against children. This is in clear breach of international standards concerning the protection of children, including the United Nations Convention on the Rights of the Child which, in Article 3, states:

“In all actions concerning children ... the best interests of the child shall be a primary consideration”

- ↪ **It is the legal responsibility of the government to ensure that children, regardless of their social or ethnic origin, birth or other status, are protected by society.**
- ↪ **Amnesty International urges the Honduran government to take immediate**

steps to develop effective measures which halt both human rights abuses, such as unlawful killings of minors, and the impunity persistently enjoyed by the perpetrators.