

AI Index: AMR 13/012/2004  
Ref.: TG AMR 13/06.04

Sr. Julio Cobos  
Governor of the Province of Mendoza  
Casa de Gobierno  
Barrio Cívico  
5500 Mendoza  
Argentina

London, 17 February 2004

Dear Governor,

Amnesty International is writing to you to express its concern about information it has received concerning the situation and conditions of detention of the inmates of Mendoza Prison.

The information received indicates that, at the beginning of February, the prisoners presented a petition to the provincial and prison authorities listing 10 demands, including a call for benefits to be implemented, criminal enforcement courts and appeal bodies to be set up in this field and improvements made to the prison infrastructure. According to the information received, the adjudication and delivery of benefits which improve the conditions of detention, and release on parole for inmates who have accumulated the required number of good behaviour points, does not appear to be being carried out under a system of transparency and fair assessment to give prisoners the benefits to which they are entitled by law. It has been intimated that there are 400 prisoners who ought to be considered for such benefits, whose adjudication process has been delayed without justification.

The information received by Amnesty International from both the media and human rights lawyers indicates considerable overcrowding at this prison, which has a capacity of 600, but which at the present time is housing more than 1,600 remand and convicted prisoners. The information received indicates that there are no medicines; that medical attention is inadequate, leaving it to the guards to decide whether to call a doctor in an emergency; that the insanitary conditions and inadequate drains result in an increase in the number of rodents and the risk of contracting Chagas disease. There are no work or recreation areas. For example, in Block 9, the isolation sector, about 40 people are being held in overcrowded conditions, with no showers or toilets and these inmates have to perform their bodily functions into a plastic bag, in front of the other prisoners, without any privacy at all. Under the punishment regime, which lasts five days, the offender is held in a cell with no toilet, mattress or blanket. Women who are being held in the women's block have complained about the need to improve the health and sanitary services and have also requested assistance for their children, who live with them in the prison.

Amnesty International considers that the conditions of detention in Mendoza Prison constitute cruel, inhuman or degrading treatment and violate the Argentine Republic's international commitments under the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *United Nations Standard Minimum Rules for the Treatment of Prisoners* and the *United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*. Amnesty International would like to know what action is being taken to resolve this situation and bring the regime at Mendoza Prison into line with the above-mentioned Convention, Rules and Principles.

It is appropriate to mention that the Constitution of the Argentine Nation, in its Article 18, states that “[...] The prisons of the Nation shall be healthy and clean, for the security and not for the punishment of the prisoners confined therein; and any measure taken with the pretext of precaution which may lead to mortify them beyond the demands of security, shall render liable the judge who authorises it.”

The deplorable situation at Mendoza Prison has, in the last three years, been submitted for consideration by the judicial authorities under *habeas corpus* and has been considered by provincial courts. In spite of this, these conditions persist. In November 2002, the 8<sup>th</sup> *Juzgado de Instrucción* Trial Court of the Province of Mendoza partially upheld the *habeas corpus* petition presented by human rights lawyers in favour of the inmates of Mendoza Prison. In his Ruling, the judge stated: “I find that the *habeas corpus* petition filed in this case should be granted because, after two years, not only is the situation which has been before me since approximately 2000 still in existence, it has even deteriorated. Overcrowding, extended confinement, the failure to separate remand prisoners from convicted prisoners and the various shortcomings complained of have been noted by the Court and even expressed by the Director of the Prison [...]”. This ruling was confirmed by the Sixth Criminal Chamber and by the Supreme Court of Justice of the Province of Mendoza.

As you are aware, Amnesty International bases its action on international human rights standards proclaimed by the international community through the United Nations and other inter-governmental bodies, with which States undertake to comply. We approach governments because of the specific obligation they have given to ensure that officials of the State act within the law and respect fundamental human rights.

Amnesty International understands that the Argentine Republic is a federal republic where the different provinces have authority over their legislative and judicial system. However, the Argentine government is responsible for the implementation of international agreements and treaties ratified by the Argentine State. Consequently, this letter is also being sent to the national Ministers of the Interior and Foreign Affairs and to the national Secretary of Human Rights, as well as to the Minister for Justice and Security of the Province of Mendoza.

Amnesty International thanks you in advance for your prompt attention to the concerns expressed in this letter and for any information you may provide in this respect. We would like to inform you that we are publishing this letter.

Yours faithfully,

Guadalupe Marengo  
Acting Regional Director  
America Regional Program