

# ECUADOR

## Pride and Prejudice

### Time to break the vicious circle of impunity for abuses against lesbian, gay, bisexual and transgendered people

#### INTRODUCTION

In June 2001, Amnesty International published: *Ecuador - Continued torture and ill-treatment of Lesbian, Gay, Bisexual and Transgendered people*, AMR 28/009/2001. The report was launched at the *Casa de la Cultura Ecuatoriana* in Quito, on 22 June 2001. Since then, Amnesty International has documented new cases of homophobic harassment, torture and ill-treatment against lesbian, gay, bisexual and transgendered (LGBT) people, in the cities of Quito and Guayaquil.

Similarly to the cases outlined in the report published in June 2001, most of the new cases received by Amnesty International are cases of LGBT people allegedly accused of committing "outrages against decency", *atentado contra la moral pública*. Although these offences are infractions that are not punishable with detention but with a fine, according to the Ecuadorian Penal Code<sup>1</sup>, LGBT people have been held in detention

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<sup>1</sup> The Ecuadorian Penal Code in its chapter nº 1 on Infractions of the First Class, Article 604, states that: *The following shall be punishable with a fine ...* paragraph 35: "Whosoever publicly offends against decency by means of indecent acts or speech" [unofficial translation], *Serán reprimidos con multa, los que públicamente ofendieren el pudor, con acciones o dichos indecentes;* paragraph 43: "Whosoever fails to show due obedience and respect for an official, even if they are not acting in the performance of their duties, as long as they have identified or presented themselves as such, where the act does not constitute an offence" [unofficial translation], *los que faltaren a la sumisión y respeto debidos a la autoridad, aun cuando no sea en el ejercicio de sus funciones, siempre que en este caso se haya anunciado o se haya dado a conocer como tal, si el acto no constituye delito.* Other infractions which are only punishable with a fine are also used by Ecuadorian authorities to arbitrarily detain people because of their sexual orientation: Chapter nº 3 of the Ecuadorian Penal

for this offence. From the circumstances surrounding the detentions in the cases investigated, Amnesty International considers that their detention is based solely on their sexual identity.

Amnesty International has documented more cases of torture and ill-treatment of detainees by police officers because of the victims' sexual orientation, particularly in Guayaquil. Ill-treatment and torture, including sexual harassment are used as a means to humiliate, disempower and subjugate the victims, sometimes with the alleged purpose of obtaining a bribe. In some cases, it has been reported that sexual harassment by police officers was committed with the connivance of other colleagues who witnessed the situation (see sample case N°1, page 5). Amnesty International has also documented cases in which the Ecuadorian authorities failed to protect the rights of LGBT people by not seriously investigating allegations of human rights violations against them (see sample case N° 2, page 6).

In addition, the organization is also seriously concerned that a considerable number of victims of human rights violations perpetrated because of the victims' sexual orientation go unreported. Amnesty International believes that this is due to the fact that the victims do not believe that they will be taken seriously by the authorities. They also fear for their safety. Amnesty International has received new testimonies in which the victims have asked that the details of their cases remain confidential because they fear for their safety (please see sample case N° 6, page 11).

Sadly, these human rights violations occur in a country whose Constitution is one of the few in the world that explicitly includes "sexual orientation" in their non-discrimination provisions; and paradoxically most of these crimes brought to the attention of the Ecuadorian authorities go persistently unpunished.

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Code, Infractions of the Third Class, Article 606, "*the following shall be punishable with a fine, paragraph 8 , those responsible for affray or night-time disturbances*" [unofficial translation], *Serán reprimidos con multa ... los culpables de pendencias o algazaras nocturnas.*

These abuses appear to reflect institutionalized prejudice on the part of certain authorities and law enforcement officials. Amnesty International has been informed by the Director of the Friends for Life Foundation, *Fundación Amigos por la Vida*, Neptalí Arias Zambrano, that the Guayas and Galápagos Province Chief of National Police, appointed in September 2001, informed him in a telephone conversation that "I am not against homosexuals who behave passively, I am against those who dress as women and those who flaunt their homosexuality" (... *no estoy contra los homosexuales pasivos sino contra los que se visten de mujer y aquellos que hacen gala de su condición de homosexuales* ...). The Guayas Province Chief of National Police also explained to him what he meant by "homosexuals who behave passively" referring to "those who do not flaunt their homosexuality, those who are quiet and do not dress like women, those who stay at home ..." (... *aquellos que no hacen gala de su homosexualidad, el homosexual que es tranquilo, que no se viste de mujer, que se queda en su casa* ...). Amnesty International believes that there is a direct relation between the personal views of the newly appointed Guayas Province Chief of National Police about homosexuality and the increase in police round-ups in the streets of Guayaquil since September 2001 (see case n°5, page 9). These round-ups often end with the arbitrary arrest of LGBT people, in contravention of Article 23, paragraph 3 and 5 of the Ecuadorian Constitution<sup>2</sup>.

Cases of torture and ill-treatment occur in the context of other restrictions on the rights of freedom of expression of LGBT people. LGBT organizations in Guayaquil asked for permission from the municipal authorities to march to celebrate the World Pride Day, on 28 June 2001<sup>3</sup>. Permission for the Pride Parade was initially verbally denied by the

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<sup>2</sup>Article 23 of the Ecuadorian Constitution, paragraph 3 states: "Equality before the law. Everybody will be considered equal and will enjoy the same rights, freedom and opportunities, without discrimination because of their birth, age, ethnic origin, colour, social background, language, religion, ideology, economic position, sexual orientation, health status, disability or difference of any kind" [unofficial translation]. *La igualdad ante la ley. Todas las personas serán consideradas iguales y gozarán de los mismos derechos, libertades y oportunidades, sin discriminación en razón de nacimiento, edad, etnia, color, origen social, idioma; religión, filiación política, posición económica, orientación sexual; estado de salud, discapacidad, o diferencia de cualquier otra índole.* Article 23 of the Ecuadorian Constitution, paragraph 5 states: "It is everybody's rights to develop freely their personality, without any limitation other than those imposed by law and the rights of others" [unofficial translation]. *El derecho a desarrollar libremente su personalidad, sin más limitaciones que las impuestas por el orden jurídico y los derechos de los demás.*

<sup>3</sup> Thirty two years ago, on 28 June 1969, raids and police harassment against lesbian, gay, bisexual and transvestites triggered a response in Stonewall, a bar in New York, USA. The riots of that day became a symbol of resistance for LGBT people all around the world. Nowadays, every year LGBT and other non governmental human rights organizations celebrate this event during the month of June. On 28 June 2000, the Friends for life Foundation, *Fundación Amigos por la vida*, in Guayaquil, organised a march to celebrate Gay and Lesbian Pride. The event had been previously authorised by the authorities and brought together some 300 lesbians, gay men and transvestites. However, at the starting point of the march, they were ordered to disband by the Guayas Province Chief of National Police, reportedly, following orders from the Guayas Governor. According to reports, approximately 60 police officers surrounded the crowd, threw tear gas canisters and prevented the march from taking place.

former Guayas Province Chief of National Police. However, permission was granted just two hours before the event was due to take place, giving the organisers very little time to publicise this event. More recently, non governmental organizations working on AIDS prevention and assistance requested the permission of the Guayaquil Mayor for a march to raise awareness on the issue of AIDS for the 1<sup>st</sup> December 2001, World AIDS day. The Mayor denied permission for this march stating that it would obstruct traffic.

As Article 23, paragraph 3 and 5 of the Ecuadorian Constitution implicitly recognises, sexual orientation, like gender or race, relates to fundamental aspects of human identity. It relates to the deepest of feelings, to the innermost desires of the mind and the most intimate

expressions of the body, which goes to the core of a person's right to physical and mental integrity. These rights must include the freedom to determine and express one's sexual orientation and/or identity to do so on the basis of equality -- free of fear and discrimination. Amnesty International is concerned that the vicious circle established by the impunity surrounding these cases may contribute to further violence against LGBT people.

The organization calls on the Ecuadorian authorities to send a clear message to government officials, as well to the public, that human rights violations and discrimination against people because of their sexual orientation will not be tolerated and that perpetrators will be brought to justice. If the denial of rights to any social group is tolerated, the entire structure of human rights protection is undermined.

## **CASES OF HUMAN RIGHTS VIOLATIONS AGAINST LGBT PEOPLE**

### **CASES FROM QUITO**

#### **N°1: Arbitrary detention, police ill-treatment, death threat and sexual abuse of Jairo Cortéz Jalca and Patricio Ordoñez Maico**

According to reports, on 31 May 2001, Patricio Ordoñez Maico, a gay man, was detained by two National Police officers in Quito. At the moment of being detained, he received a blow to his back from one of the police officers. He was taken to a police post in the Mariscal area, where he was seen by two police officers. One of them asked him to undress to check if he was carrying arms or drugs. Once the police officer had confirmed that he was not carrying arms and drugs, one of the police officers began to sexually abuse the detainee, however, as Patricio Ordoñez begged the police officer not to do it, the police officer stopped.

Patricio Ordoñez asked the police officers to allow him to make a phone call, but the police officers refused. One of the police officers allegedly told him that if he was going to file a complaint against them, the police officers would find him when released, shoot him and drop him in the Machangara river. Reportedly, the police officers took money from Patricio Ordoñez and asked him to give his home address. On 8 June 2001, Patricio Ordoñez reported he had seen one of the police officers in a police patrol car in front of his home.

On 2 June 2001, Jairo Cortéz Jalca, another gay man, and Patricio Ordoñez were on their way home when they were stopped by National Police officers in a street in Quito. According to reports, the police officers beat them up, took Jairo Cortéz' bag and ordered Patricio Ordoñez to leave the area. They then continued to beat Jairo Cortéz. As Patricio Ordoñez was waiting for Jairo Cortez nearby, the police officers called him back, punched him and described him mockingly as the husband of Jairo Cortéz. On this occasion, the police officers also stole money and belongings from the victims.

Jairo Cortéz and Patricio Ordoñez, presented their cases before the non governmental organization, Human Rights Ecumenical Committee, *Comité Ecuménico de Derechos Humanos*, CEDHU. On 28 and 29 June 2001, they presented their complaints before the judicial police accompanied by one of CEDHU's lawyers. To date, neither the victims, nor CEDHU have received information of the outcome of the judicial police investigations.

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**Nº 2: Police inaction against homophobic violence. The case of Narda Torres Arboleda and Adriana Chávez**

In the early evening of 12 June 2001, Narda del Rocío Torres Arboleda returned home in Quito, carrying shopping bags when she was intercepted at the front of her home by two men who grabbed her hair and pushed her to the ground beating her and shouting: "bitch we are going to rape you ... [we are] going to give you dick and you will like it ... filthy lesbian if you don't like the way we fuck you, [we are] going to kill you so we can get rid of you ... doesn't it make you sick to be like that?"; *hija de puta te vamos a violar ... te vamos a dar verga para que te guste... lesbiana asquerosa si no te gusta como te culiamos te vamos a matar para librarnos de ti ... no te da asco ser así.*

"For every word [they said] I received a punch; I could not defend myself as they were grabbing me by my neck and that made it difficult to shout. Suddenly, I heard the voice [of my girlfriend] who asked: What's going on?" *Por cada palabra [que ellos decían] recibía un golpe; yo no pude defenderme ya que me tenían por el cuello y eso me dificultaba gritar. De repente escuché la voz [de mi compañera] que preguntó: Qué pasa?* Narda Torres told Amnesty International. This intervention frightened the attackers who ran away to a waiting car nearby.

The following day, Adriana Patricia Chávez Chávez, Narda Torres' partner, who witnessed the attack, went with her to the National Police Station Nº 5, in Quito, to file a complaint. Both reported that police officers ignored them when they tried to give their accounts of the harassment and beatings. In particular they were ignored when they informed police officers that the motive of the harassment was her sexual orientation. According to her accounts, it took some time for the police to appear to be taking her complaints seriously. Narda Torres was seen by a police legal physician, who reported that she had bruises caused by the punches she received to her left eye and that her upper lip was inflamed. On 18 June 2001, she went to the Medical Communal Service, the doctor there diagnosed that she had a broken nose and needed surgery.

The police gave Narda Torres a kind of permit, *boleta de auxilio*, which gave her the right to ask any police officers to detain those who had allegedly abused her should the incident occur again. However, according to reports, no further investigation was carried out by the police.

Two months later, in another incident, on 28 August 2001, Adriana Chávez, who has a 12 year old daughter, was approached by the same two men, involved in the earlier attack, who told her: "How long are you going to carry on with your damned bad example. Disgusting lesbians! ... don't you feel ashamed to look like a man? Shitty butch dyke.

You do not have scruples, you are sick. Do you want your daughter to be like you? Filthy pig."; *Hasta cuando van a seguir con su maldito mal ejemplo. Lesbianas asquerosas! ... y a vos no te da vergüenza parecerte a un hombre. Marimacho de mierda! No tienes escrúpulos, enferma. Que quieres que tu hija sea igual a ti? Puerca asquerosa.* They ordered her to leave the neighbourhood, so the neighbours could live in peace.

On 3 September 2001, the Human Rights Ecumenical Committee, *Comisión Ecuménica por los Derechos Humanos*, CEDHU, wrote a letter to the Minister of the Interior, Dr. Juan Manrique, informing him about the case of Narda Torres and her partner and requesting an investigation into their allegations.

Most recently on the evening of 5 December 2001, Narda Torres and Adriana Chávez were harrassed and intimidated on arrival at the entrance to their home. As Adriana Chávez opened the front door, a car, some 70 metres away, accelerated onto the footpath towards them. Adriana Chávez managed to open the door and rush inside, however Narda Torres had no time to do the same, and although trying to avoid the car, she was partially struck and consequently suffered considerable contusions to her leg and is now required to wear a plaster cast. Narda Torres and Adriana Chávez both reported that the car involved appeared similar to the one used in the previous event of the 12th June 2001, during which the two attackers ran away. They also concluded that the two occupants of the car in the most recent event looked very similar to those involved before.

At the time of publication, neither Narda Torres and Adriana Chávez, nor CEDHU had received a reply from the Ecuadorian authorities that an investigation into these allegations was being carried out.

## CASES FROM GUAYAQUIL

### **Nº 3: Arbitrary detention and death threats against a human rights defender and other transvestites, harassment and ill-treatment by police officers**

According to reports, on 15 June 2001 there was a police round-up in the centre of Guayaquil, in which several transvestites were arbitrarily detained and ill-treated.

Henry Rodríguez Lozano, Coordinator of the Transgender Department at the Friends for Life Foundation, *Coordinador del Departamento de Transgénero de la Fundación Amigos por la Vida*, witnessed the detention and attempted to take pictures of the

round-up. According to reports, the detainees were beaten by police officers in the presence of the former Guayas Province Chief of National Police. However, police officers took the camera from Henry Rodríguez, destroyed the negatives and did not return the camera until three days later. Henry Rodríguez was detained during the round-up. Whilst he was in the police van on the way to the National Police Headquarters, the *Cuartel Modelo*, police officers reportedly told him that he was detained in retaliation because of the constant complaints he made about human rights violations committed by police officers and that he should be shot and his body thrown in the *Perimetral*<sup>4</sup>.

He was released on 18 June 2001. Henry Rodriguez reported his case to the Guayas and Galápagos Province Ombudsman in a letter dated 19 June 2001.

Five months later, on 11 November 2001, Henry Rodríguez Lozano was detained again. On that day he was at a local square, *Mercado de las Almas*, with friends when he was detained. He was the only one of the group to be detained and remained in detention until the evening of 14 November 2001. He was allegedly accused of committing an outrage against decency, verbal aggression and drinking spirits in the streets. However, Henry Rodríguez and witnesses reported that those charges were false. Amnesty International believes that he was detained because of his public advocacy for the defence of the rights of LGBT people and that his detention was arbitrary.

#### **N°4: Harassment of human rights defenders by private security guards**

In the evening of 18 August 2001, Christian Landeta Centeno<sup>5</sup>, and Luis Gonzalo Viteri Salvatierra and two other gay men, who want to remain anonymous, were walking in Las Peñas, an historical site in Guayaquil. Christian Landeta is the Coordinator of Rainbow Youth, *Juventud Arco Iris*. This group promotes safe sex practices, and gives free health advice to prevent the spread of AIDS amongst young LGBT people and is part of the Friends for Life Foundation.

According to reports, one of the four gay men was forced by a private security guard to accompany him to a restaurant which was unoccupied. Inside there were three other private security guards. Christian Landeta, who was with the group, followed the guards

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<sup>4</sup> The Perimetral is a ring road in the city of Guayaquil where bodies of people have been found shot dead.

<sup>5</sup> For further information on other circumstances when Christian Landeta Centeno has been intimidated and harassed see urgent action update, Human Rights Defenders, Christian Landeta et al, AMR 28/012/2001, 4 April 2001; and urgent action update AMR 28/014/2001, 1 May 2001.



asking them why they had detained his friend. The guards replied that it was because they were gay and then the guards proceeded to body search the four gay men arguing that they were checking for arms.

Reportedly, the guards called their superior over, who told them: "these queers have to be detained", *a estos maricones hay que mandarlos detenidos*; then the superior left the area. The guards asked the detainees for money and under pressure and insults the private security guards took US \$ 40 dollars from them and the T-shirt Christian Landeta was wearing at that time.

According to information received, the guards were contracted by the Foundation SXXI, a foundation which has an agreement with the Guayaquil council to regenerate the city.

Friends for Life Foundation wrote to the Guayaquil Mayor denouncing this case on 20 August 2001. The Guayaquil Mayor replied to them on 25 October 2001, attaching a report from the Auditor General, which states that the security guards had nothing to do with the Guayaquil Council, that they were not Guayaquil Council's employees and that the company for which the security guards worked did not want to inform them about the identity of the guards. It stated that the victims should take the actions that they considered pertinent, themselves disconnecting the Guayaquil council from any responsibility.

However, Amnesty International believes that if the Ecuadorian authorities are serious about the protection of LGBT people and promoting their rights, the intimidation and harassment that Christian Landeta Centeno, and Luis Gonzalo Viteri Salvatierra have suffered has to be thoroughly and impartially investigated and those responsible brought to justice. The fact that the perpetrators are private individuals and not state agents does not absolve the authorities of their responsibility: the state may be held accountable under international human rights standards when these abuses persist owing to the complicity, acquiescence or lack of due diligence of the said authorities.

#### **Nº 5: Round-ups and arbitrary detention of LGBT people by police officers in Guayaquil**

According to reports, since the new Guayas Province Chief of National Police took up office in September 2001, police round-ups in the streets of Guayaquil have increased. This has affected LGBT people, but not exclusively. Police round-ups occur with greater frequency during Fridays to Sundays in the evenings. During the police round-ups from 9 to 11 November 2001, at least 433 people were detained.

According to press reports, the police round-ups are directed against those who drink alcohol in the streets, play football preventing the flow of traffic on the roads, or cause “outrages against decency”<sup>6</sup> as well as other misdemeanours. However, it is reported that a considerable number of people have been detained solely because they were walking in the streets of the city, not because they were committing any offence. In addition, some of the alleged offences of which they have been accused and detained are not punishable with detention, but with a fine.

Although human rights organizations cannot report the exact number of LGBT people who has been arbitrarily detained during these police round-ups; these organizations have received at least 20 complaints from LGBT people who were allegedly arbitrarily detained from 9 to 11 November 2001. All of them were taken to the Provisional Detention Centre, *Centro Provisional de Detención*, and were held in the *Lagartera*<sup>7</sup>, a collective cell, in which the most aggressive prisoners are held, some of whom have previous criminal records. They remained in detention for an average of two days, although the alleged offences against some of them should have been punished with a fine rather than with detention. According to press reports, money, clothes and mobile phones of some of the detainees held in the *Lagartera*, were stolen, allegedly, by other prisoners.

Four children were amongst this group. One of these children was allegedly raped by other detainees whilst being held in the *Lagartera*. Amnesty International is seriously concerned that minors are held in detention in the *Lagartera*, in the Guayaquil Provisional Detention Centre. The Convention on the Rights of the Child, ratified by Ecuador on 23 March 1990, in its Article 37 (c), states: “Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances”. In addition, the United Nations Standard Minimum Rules for the Treatment of Prisoners establishes in its Article 8 (d): “Young prisoners shall be kept

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<sup>6</sup> Please, see introduction for an explanation of this infraction.

<sup>7</sup> The *Lagartera* is a cell in the Provisional Detention Centre in Guayaquil, of approximately 15m x10m. From 9 to 14 November 2001, it was reported that there were an average of 50 people held there every day. Amnesty International delegates visited the Provisional Detention Centre in Guayaquil in March 2000. The delegates found the conditions in which these detainees were held to be cruel, inhuman and degrading. The Provisional Detention Centre holds detainees under investigation by the police who by law should be released or charged within 24 hours.

separate from adults; and in its Article 85 (2), young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions”.

### **Nº 6: Abduction, attempted abduction rape and possible murder by an armed hooded group**

On 4 August 2001, Víctor Arreaga Aragón (Lily), a 20 year old transvestite was shot three times. She was still alive when she was found in a street of Guayaquil by police officers. They took her to a hospital where she later died. On her body were found bruises, apparently resulting from beatings she suffered before she was killed.

Darío Mendez (not his real name), a gay man, was allegedly abducted by five hooded armed men whilst walking in the streets in Guayaquil in September 2001. The men grabbed him into a van where they insulted, beat and forced him to undress and then raped him with a piece of a cane. They threatened to kill him and said that they would throw his body in the *Perimetral*<sup>8</sup>. Darío Mendez reported that he heard them say that he would not be the first to be killed by them. The abductors took his money and released him. At the time of publication, Darío Mendez is still receiving medical attention due to an infection produced by splinters from the cane. He is also receiving psychological treatment.

More recently, on the evening of 23 November 2001, Israel Cortéz Lozano (Naomi), a transvestite member of the Friends for Life Foundation, reported to Amnesty International that five hooded men attempted to abduct her in a van, which had no licence plate and was similar to the one described by Darío Mendez. One of the abductors shouted to the others: "get him, he is a wretched queer and we are going to kill all of them"; *cógelo, es un marica desgraciado y hemos de terminar con ellos*. The abductors ran away leaving her behind as a taxi driver helped her to get out of the area quickly, thus avoiding the abduction when the four hooded men and the driver of the van were very close to catching her.

Ecuadorian human rights organizations investigating these three incidents concluded that they might be linked and that a paramilitary group might be operating in Guayaquil.

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<sup>8</sup> See footnote nº4.

## CONCLUSIONS

Amnesty International believes that the Ecuadorian authorities have not shown a clear commitment to protect and promote the human rights of LGBT people in Ecuador.

Amnesty International has received communications from the Ecuadorian authorities informing the organization that investigations into the allegations of human rights violations against LGBT people published in *Ecuador - Continued torture and ill-treatment of Lesbian, Gay, Bisexual and Transgendered people*, AMR 28/009/2001, June 2001, are going to take place.

The Ministry of the Interior's National Human Rights Director, Wilson Mayorga, wrote to Amnesty International, on 21 May 2001, in relation to the death threats received by LGBT activists during March and April 2001. The letter informed Amnesty International that the National Police had taken preventive measures to guarantee the security of the members of LGBT human rights defenders and stated that the Ministry of the Interior's National Human Rights Directorate condemned the death threats sent by e-mail, which they considered to be actions of extremist fanatics<sup>9</sup>.

*On 6 April 2001, the Permanent Defence Human Rights Committee, Comité Permanente por la Defensa de los Derechos Humanos, a non-governmental organization based in Guayaquil sent a letter to the Guayaquil Mayor, Jaime Nebot Saadi, in relation to 65 cases of human rights violations against LGBT people in the city of Guayaquil between October 2000 and April 2001. The Mayor responded to this letter stating that a police officer was sacked for having committed these crimes. The Mayor referred in his letter dated 6 June 2001, to: "the National Police Discipline Tribunal's sentence on which the National Police officer ... is dismissed from service for having committed serious*

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<sup>9</sup> For further information on these threats, please see Urgent Action 73/01, Fear for safety/Death threats, *Quitogay et al*, AMR 28/010/2001, 29 March 2001; Urgent Action Update, Fear for safety/Death threats, AMR 28/012/2001, 4 April 2001, Urgent Action Update, Fear for safety/Death threats, AMR28/014/2001, 1 May 2001 and *Continued torture and ill-treatment of lesbian, gay, bisexual and transgender people*, AMR 28/009/2001, June 2001.

*offences described in the mentioned report”; (la sentencia dictada por el tribunal de Disciplina de la Policía Nacional en la cual se impone al Policia Nacional ... la pena de destitución y la baja de las filas de la institución policial por haber incurrido en la comisión de las graves faltas descritas en el referido informe).*

Amnesty International received a letter from the Attorney General’s office dated 6 July 2001, which acknowledged receipt of a copy of the report: *Ecuador - Continued ill-treatment and torture of LGBT people*, AMR 28/009/2001. The letter also informed Amnesty International that the Attorney General, Mariana Yépez Velasco, had ordered that an investigation be opened into the allegations reported in Amnesty International’s document. At the time of publication, Amnesty International had not received the report on the outcome of this investigation.

Amnesty International believes that the Ecuadorian authorities must take further steps to ensure that the rights of LGBT people are fully respected.

## **RECOMMENDATIONS**

In view of the pattern of human rights violations against LGBT people and the lack of effective response by the authorities, Amnesty International is making the following recommendations to the Ecuadorian government:

### **Condemn discrimination**

The Ecuadorian authorities must send a clear signal to police enforcement officials and other government agencies stating that discrimination will not be tolerated, including discrimination of people because of their sexual orientation or gender identity.

Government officials should initiate and support public anti-discrimination campaigns to raise awareness of the need to protect the rights of all people, including LGBT people, to be free from torture, ill-treatment and any other abuses.

### **Condemn torture, ill-treatment or any other cruel, inhuman or degrading treatment**

The Ecuadorian authorities must send a clear signal that torture, ill-treatment or any other cruel, inhuman or degrading treatment will not be tolerated in any case, including cases of LGBT people and that perpetrators will be prosecuted.

Officials at the highest level should condemn torture and make clear that any act of torture or ill-treatment, whoever the victim, will not be tolerated. They should refrain from any public statement or order which could reasonably be interpreted as a licence to torture or ill-treat people because of their sexual identity. Those who make such statements should be held accountable for instigating, inciting or abetting torture.

**Provide safeguards in custody**

The Ecuadorian authorities must ensure that all law enforcement personnel, prison staff, medical personnel and other relevant officials are trained in how to protect LGBT people against torture or ill-treatment or any other cruel, inhuman or degrading treatment.

Government officials must take effective measures to prevent rape and other sexual violence against LGBT people in custody. Rape in police or prison custody should always be recognized as an act of torture. Female prisoners should be held separately from male prisoners. They should not be supervised by male members of staff and female security personnel should be present during their interrogation.

Segregation in prisons should avoid further marginalizing LGBT people within the prison community or rendering them at further risk of torture or ill-treatment. Transgender prisoners should normally be held in accommodation based on their preferred gender identity.

**End impunity**

The Ecuadorian authorities should ensure that all allegations and reports of torture or ill-treatment and other cruel, inhuman or degrading treatment, on account of real or perceived sexual identity, are promptly and impartially investigated and those responsible brought to justice.

**Protection of human rights defenders**

The Ecuadorian government should support the work of organizations working against LGBT people's discrimination and enable them to carry out their work without fear or unjustifiable restriction<sup>10</sup>.

Government officials also should ensure adequate protection of human rights defenders at risk because of their work on issues of gender and sexual identity. Their work should

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<sup>10</sup> In a resolution adopted in June 1999, the General Assembly of the Organization of American States (OAS) stated its intention to implement the United Nations (UN) Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The resolution called on member states to provide "Human Rights Defenders with the necessary guarantees and facilities to continue freely carrying out their work of promoting and protecting human rights", as well as to adopt "the necessary steps to guarantee their life, liberty, and integrity".

be supported and they should be consulted on policy initiatives to combat torture and ill-treatment.

**☞ WHAT YOU CAN DO:**

***Please send courteously-worded faxes or airmail letters of inquiry preferably in Spanish to the authorities listed below:***

- expressing serious concern that Amnesty International continues receiving new reports of torture, ill-treatment and arbitrary detentions of people because of their sexual orientation or gender identity in Ecuador;
- expressing serious concern that LGBT people continue to be detained by police under alleged offences that cannot be punished with detention but with a fine, particularly in Guayaquil;
- urging them to investigate these allegations, make public the results and bring the perpetrators to justice;
- urging them to take steps to ensure that similar incidents do not occur in future and to send a clear message that ill-treatment, torture and discrimination will not be tolerated;
- asking them to do everything in their power to allow LGBT human rights defenders to carry out their legitimate human rights work without fear of arrest, ill-treatment or other abuses and to protect LGBT people, their organizations and LGBT human rights defenders;
- reminding the authorities that the Ecuadorian Constitution establishes that all individuals shall be considered equal and shall enjoy the same rights and opportunities and explicitly prohibits discrimination based on sexual orientation; and
- asking them what measures they are taking to implement in practice Article 23 of the Ecuadorian Constitution, paragraph 3 and 5 to prevent government officials violating the human rights of people because of their sexual identity.



**PLEASE SEND APPEALS TO:**

**President**

**Dr. Gustavo Noboa Bejarano**  
**Presidente Constitucional de la República**  
**del Ecuador**  
**Palacio de Carondelet, García Moreno 1043**  
**Quito, ECUADOR**  
**Salutation: Sr. Presidente/Mr. President**  
**Email: despresi@presidencia.ec-gov.net**

**Head of the Public Ministry**

**Dra. Mariana Yépez de Velasco**  
**Ministra Fiscal General de la Nación**  
**Ministerio Fiscal General del Estado**  
**Av. Eloy Alfaro y República**  
**Quito, ECUADOR**  
**Salutation: Sra. Ministra/Dear Attorney**  
**Email: fiscalia@uio.satnet.net**

**Head of the National Police**

**Gral. Ing. Jorge Molina**  
**Comandante General de la Policía Nacional**  
**Comandancia General de la Policía Nacional**  
**Ramírez Dávalos 612 y Av. 10 de Agosto**  
**Quito, ECUADOR**  
**Salutation: Sr. Comandante General**  
**/Dear Commander-in-Chief**

**Minister of Interior**

**Dr. Marcelo Merlo Jaramillo**  
**Ministro de Gobierno**  
**Ministerio de Gobierno, Policía**  
**Cultos y Municipalidades**  
**Benalcázar y Espejo**  
**Quito, ECUADOR**  
**Salutation: Sr. Ministro/Dear Minister**

**Send copies of the letter you sent to the**  
**Ecuadorian President to:**

☛ **diplomatic representatives of Ecuador**  
**accredited to your country, with a cover letter**

**and also to:**

☛ **Non Governmental Organization**

**Fundación Amigos por la Vida**  
**José Mascote 200 y Manuel Galecio**  
**Guayaquil, ECUADOR**  
**Email: + famivida@hotmail.com**