

# **amnesty international**

---

## **HONDURAS**

**New amnesty law comes into  
force**



August 1991  
AI Index: AMR 37/12/91  
Distr: SC/CO

**INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM**

---

# HONDURAS

## New amnesty law comes into force

On 24 July 1991 a sweeping amnesty law came into force which Amnesty International fears could block investigations into past human rights abuses. The law had been passed by the Legislative Chamber on 10 July and was approved by President Rafael Leonardo Callejas on 23 July. It grants a "broad and unconditional amnesty" [una amplia e incondicional amnistía] to those who, prior to the law coming into effect, have been "sentenced, against whom legal proceedings have been initiated or who could be liable to prosecution" [sentenciadas, procesadas o sujetas a ser procesadas] for certain political crimes or common crimes linked to them. Among the crimes covered by the law are killings, torture and unlawful arrests committed by police and military personnel, and failures by judges to process habeas corpus petitions in accordance with the law.

In its report of 19 June 1991, **Honduras: Persistence of Human Rights Violations**, Amnesty International had expressed its concern about the failure of the authorities to bring to justice those responsible for human rights violations and called on the government to implement a series of recommendations to safeguard human rights, including in-depth investigations in order to determine the full circumstances surrounding each case and to determine those responsible. Although the International Secretariat of Amnesty International has not yet received a direct reply of substance to the report, which it submitted to the government in May, President Callejas publicly announced in June that he had issued instructions at all levels that "anyone who violates individual guarantees will be sanctioned according to the law" [para que sean sancionadas en base a derecho todas aquellas personas que violen las garantías individuales de los ciudadanos].

Following the passing of the amnesty law by the Legislative Chamber, Amnesty International sent a telex to President Callejas (appended) urging him, in the spirit of his statement, not to approve any measure which would allow blanket immunity from prosecution to military and police personnel responsible for human rights abuses. Amnesty International pointed out that it knew of no specific cases where members of the military or police had been convicted for gross human rights violations and that there

was little evidence to suggest that such abuses have been fully and impartially investigated. It also said that the amnesty law was contrary to international principles calling on governments to effectively investigate extrajudicial executions, "disappearances" and torture. **Amnesty International believes that the government should give explicit instructions that the new amnesty law will not be used to block investigations into human rights violations which occurred before the law came into force.** It is seeking clarification as to the state of investigations into cases of unlawful killings and torture which were documented in its June report. The organization is also still awaiting a response to its request of 5 July 1991 for details concerning members of the security forces which the government says had been convicted of human rights violations.

### **The "disappeared"**

Among those likely to benefit from the amnesty law are military and police personnel allegedly involved in more than 100 "disappearances", most of which occurred between 1981 and 1984. Amnesty International has repeatedly called on the authorities to carry out full and independent investigations into these cases, clarify the whereabouts and fate of each victim and determine who was responsible, and provide compensation to the families of the victims. It welcomes steps taken by the Procurator General at the beginning of August 1991 to try to obtain a confidential report put together by the Armed Forces in 1985 about reported "disappearances". In response to a summons issued in August 1991 by the Procurator General, General Walter López Reyes, former head of the Armed Forces, said that he had passed on the only copy of the report to the then president, Dr. Roberto Suazo Córdova (in office from 1982 to 1986). Doctor Suazo, however, announced that he had left his copy to his successor, Lic. José Azcona (President between 1986 and 1990), and added that he had been sent a photocopy and not the original document by the Armed Forces. It is reported that a summons would be issued against Lic. Azcona, who was temporarily out of the country. Relatives of the "disappeared" have cast doubt on the thoroughness of the report by the Armed Forces as they were never invited to provide information as part of the investigations.

**Amnesty International once again urges that the government take exhaustive steps to investigate the fate of those who "disappeared" and that all officials or ex-officials who may have information about what happened fully cooperate with the investigations. It reiterates its recommendation, made in its June 1991 report, that a special commission made up of individuals of unquestionable impartiality and independence be set up to look into these cases.**

### **The Agua Caliente killings**

The passing of the amnesty law also sparked off considerable debate about whether or not those responsible for killing five **campesinos** (peasants) in May 1991 would benefit from the law. It is one of the rare cases where military personnel have been detained for alleged human rights violations. The five were killed at dawn on 3 May when a large group of men, some in military uniforms and others in plain clothes partially surrounded some land which the **campesinos** had occupied and began shooting. (See AMR 37/06/91: **Killing of Five Campesinos in Agua Caliente**, May 1991.) A colonel who claimed to own the land has since been arrested in connection with the case and is reportedly at the disposition of the military courts investigating the killings. (A civilian court is also carrying out investigations.) Following the passage of the new amnesty law, the president of the Legislative Chamber reportedly announced that the chamber will issue an interpretative law preventing the application of the amnesty law in this case if necessary. Two youths arrested in May and also accused of taking part in the killings told journalists they had been tortured after their arrest, including being subject to the **capucha**, a hood causing near-suffocation. **Amnesty International is monitoring the investigations to ensure that the May 1991 killings are fully clarified by the courts and that those responsible are brought to justice.** It is also looking into allegations that the two minors were tortured. They are currently being held in a rehabilitation centre for minors.

### **Political detainees**

All thirteen political detainees whose cases were referred to in Amnesty International's June report on Honduras have now been released. The organization had been concerned that many of them had been tortured prior to their transfer to prison, that some had been denied access to legal counsel for several months, and had also suffered long delays in the proceedings against them. **Amnesty International remains concerned that their allegations of torture should be fully investigated and those responsible brought to justice. It fears that the new amnesty law could block such enquiries.**

"Impunity negates the values of truth and justice and leads to the occurrence of further violations. If this cycle is ever to be broken, Amnesty International believes that all governments, including successor governments, must undertake certain fundamental responsibilities:

First, there should be thorough investigations into allegations of human rights violations. The object of such investigations should be to determine individual and collective responsibility and to provide a full account of the truth to the victim, their relatives and society. Investigations must be undertaken by impartial institutions, independent of the security forces, and must be granted the necessary authority and resources for their task. The results of such investigations should be made public.

Second, those responsible for human rights violations must be brought to justice whether they are officials of a past or current government and regardless of whether they are members of the security forces or unofficial paramilitary groups. Alleged perpetrators should be brought to trial and such trials should conclude with a clear verdict of guilt or innocence. Although Amnesty International takes no position on the nature of the sentence, the systematic imposition of penalties that bear little relationship to the seriousness of the offences brings the judicial process into disrepute and does not serve to deter further violations. It is, of course, also important that such trials are conducted in full conformity with internationally-recognized standards and that the defendants are not subjected to torture or to the death penalty.

Third, amnesty laws which have the effect of preventing the emergence of the truth and subsequent accountability before the law, should not be acceptable, whether effected by those responsible for the violations or by successor governments. However, Amnesty International takes no position regarding the granting of post-conviction pardons once the truth is known and the judicial process has been completed."

**Extract from a statement on impunity and investigations into human rights violations made by Amnesty International to the UN Sub-Commission on Prevention of Minorities, 43rd session, August 1991.**

For further information see:

**AMR 37/06/91: Killing of Five Campesinos in Agua Caliente, May 1991**

**AMR 37/04/91: Persistence of Human Rights Violations, 19 June 1991**

**AMR 37/10/91: Amnesty International's Response to the Government's  
Comments on AI's Honduras Report, 11 July 1991**

TEXT OF TELEX TO PRESIDENT CALLEJAS, 23 JULY 1991 (Spanish)

EXCELENCIA:

CON POSTERIORIDAD A NUESTRA ULTIMA COMUNICACION, DE FECHA 5 DE JULIO DE 1991, HEMOS RECIBIDO EL TEXTO DE UN DECRETO, APROBADO POR LA CAMARA LEGISLATIVA EL 10 DE JULIO ACTUAL Y PENDIENTE DE LA SANCION DEL SR. PRESIDENTE, MEDIANTE EL CUAL «SE CONCEDE UNA AMPLIA E INCONDICIONAL AMNISTIA» A TODAS LAS PERSONAS QUE CON ANTERIORIDAD A LA FECHA DE ENTRADA EN VIGOR DE DICHA LEY HAYAN SIDO «SENTENCIADAS, PROCESADAS O SUJETAS A SER PROCESADAS» POR DELITOS POLITICOS Y COMUNES CONEXOS. TENEMOS ENTENDIDO QUE SE INCLUYEN ENTRE ESTOS DELITOS LOS ACTOS DE TERRORISMO TAL COMO LOS DEFINE EL CODIGO PENAL, Y TAMBIEN CIERTOS DELITOS COMETIDOS POR PERSONAL MILITAR Y POLICIAL EN ACTO DE SERVICIO, COMO HOMICIDIOS, DETENCION ILEGAL EN REGIMEN DE INCOMUNICACION, VEJACIONES Y APREMIOS ILEGALES O MALTRATO DE OBRA. TAMBIEN ENTENDEMOS QUE LA LEY DE AMNISTIA BENEFICIARA A LOS JUECES Y MAGISTRADOS QUE NO TRAMITARON O RESOLVIERON PETICIONES DE HABEAS CORPUS EN CONTRA DE LO QUE DISPONIA LA LEY.

AMNISTIA INTERNACIONAL HA OBSERVADO QUE EN EL PREAMBULO DEL DECRETO SE INDICA QUE ESTE FUE APROBADO A FIN DE «PROPICIAR UN AMBIENTE DE ARMONIA Y DE CONVIVENCIA PACIFICA ENTRE TODOS LOS SECTORES DE LA SOCIEDAD HONDURENA», Y QUE, POR LO TANTO PODRA BENEFICIAR TANTO A LOS PRESOS POLITICOS Y A LOS CAMPESINOS QUE SE ENCUENTRAN ENCARCELADOS POR CONFLICTOS DE TENENCIA DE TIERRA, COMO AL PERSONAL MILITAR Y POLICIAL. SIN EMBARGO, AMNISTIA INTERNACIONAL TEME QUE ESTE DECRETO, DE SER SANCIONADO, PODRIA INTERPRETARSE COMO UNA AMNISTIA GENERAL PARA LOS RESPONSABLES DE VIOLACIONES GRAVES DE LOS DERECHOS HUMANOS, PUESTO QUE EN PARTICULAR PODRIA OBSTACULIZAR LAS INVESTIGACIONES E IMPEDIR QUE LOS ABUSOS COMETIDOS EN EL PASADO QUEDARAN ACLARADOS. COMO BIEN SABE EL SR. PRESIDENTE, AMNISTIA INTERNACIONAL SE HA DIRIGIDO EN REPETIDAS OCASIONES A LAS AUTORIDADES HONDURENAS PIDIENDO ADOPTARAN LAS MEDIDAS NECESARIAS PARA INVESTIGAR EXHAUSTIVAMENTE Y SIN DEMORA TODOS LOS CASOS DE VIOLACIONES DE DERECHOS HUMANOS -- INCLUYENDO LOS CASOS DE PRESUNTA EJECUCION EXTRAJUDICIAL, TORTURA Y 'DESAPARICION' E INSISTIENDO EN QUE SE HICIERA COMPARECER A LOS RESPONSABLES ANTE LA JUSTICIA. LA ORGANIZACION NO TIENE CONOCIMIENTO DE QUE NINGUN MILITAR O POLICIA HAYA SIDO CONDENADO POR TALES DELITOS, NI DURANTE EL MANDATO DE SU GOBIERNO NI EN EL DE GOBIERNOS ANTERIORES. NUESTRA ORGANIZACION TEME QUE SI EL DECRETO DE AMNISTIA ES SANCIONADO, AL OTORGAR FORMALMENTE UNA INMUNIDAD GENERAL AL PERSONAL MILITAR Y POLICIAL, SE REFORZARIA EL CLIMA DE IMPUNIDAD QUE EXISTE HOY EN HONDURAS Y PODRIA CONDUCIR A QUE AUMENTARAN LAS VIOLACIONES DE DERECHOS HUMANOS EN EL FUTURO.

QUISIERAMOS SENALAR ADEMAS QUE ALGUNAS DE LAS DISPOSICIONES DE ESTE DECRETO, CONTRADIRIAN LOS PRINCIPIOS ESTABLECIDOS POR LA COMUNIDAD INTERNACIONAL QUE GARANTIZAN LOS DERECHOS DE LAS VICTIMAS DE VIOLACIONES DE DERECHOS HUMANOS Y DE SUS FAMILIARES, ENTRE LOS QUE FIGURAN EL DERECHO A QUE LOS CASOS SEAN INVESTIGADOS PARA PODER DETERMINAR LA RESPONSABILIDAD DE LOS HECHOS Y EL DERECHO A UNA COMPENSACION ADECUADA POR CUALQUIER DANO FISICO O MORAL QUE HUBIERAN SUFRIDO. EL PRINCIPIO 19 DE LOS PRINCIPIOS PARA LA EFICAZ PREVENCION E INVESTIGACION DE LAS

EJECUCIONES EXTRALEGALES, ARBITRARIAS O SUMARIAS, ADOPTADOS POR LA ASAMBLEA NACIONAL DE LAS NACIONES UNIDAS EN DICIEMBRE DE 1989, ESTABLECE QUE «EN NINGUNA CIRCUNSTANCIA, NI SIQUIERA EN ESTADO DE GUERRA, DE SITIO O EN OTRA EMERGENCIA PUBLICA, SE OTORGARA INMUNIDAD GENERAL PREVIA DE PROCESAMIENTO A LAS PERSONAS SUPUESTAMENTE IMPLICADAS EN EJECUCIONES EXTRALEGALES, ARBITRARIAS O SUMARIAS». EN SU INFORME DE 1991 EL GRUPO DE TRABAJO SOBRE DESAPARICIONES FORZADAS O INVOLUNTARIAS CONCLUIA QUE EN CUANTO A LAS LEYES DE AMNISTIA «...LE CUESTA ACEPTAR QUE UNA CONSECUENCIA - DE FACTO O DE JURE - DE ALGUNAS DE ESTAS MEDIDAS SEA IMPEDIR QUE SE INVESTIGUE LA SUERTE O EL PARADERO DE LAS PERSONAS DESAPARECIDAS. ES COMPRENSIBLE QUE SUS FAMILIARES OBTENGAN UN POBRE CONSUELO DE ESTE TIPO DE POLITICAS, AUNQUE ESTEN DESTINADAS A IMPEDIR LA REPETICION DE HECHOS TALES COMO LAS DESAPARICIONES». LOS INSTRUMENTOS INTERNACIONALES TAMBIEN EXIGEN DE LOS GOBIERNOS QUE INVESTIGUEN EXHAUSTIVAMENTE TODAS LAS DENUNCIAS DE TORTURA, IDENTIFIQUEN A LOS RESPONSABLES DE TALES ABUSOS Y LOS HAGAN COMPARECER ANTE LA JUSTICIA.

COMO YA INDICABAMOS EN NUESTRO MEMORANDUM, LA CORTE INTERAMERICANA DE DERECHOS HUMANOS TAMBIEN HIZO HINCAPIE EN EL PRINCIPIO DE INVESTIGACION EXHAUSTIVA DE LAS VIOLACIONES DE DERECHOS HUMANOS EN SU SENTENCIA DE 1988 SOBRE EL CASO DE ANGEL MANFREDO VELASQUEZ. LA CORTE SENALABA QUE «EL ESTADO ESTA OBLIGADO A INVESTIGAR TODA SITUACION EN LA QUE SE HAYAN VIOLADO LOS DERECHOS HUMANOS PROTEGIDOS POR LA CONVENCION. SI EL APARATO DEL ESTADO ACTUA DE MODO QUE TAL VIOLACION QUEDE IMPUNE Y NO SE RESTABLEZCA, EN CUANTO SEA POSIBLE, A LA VICTIMA EN LA PLENITUD DE SUS DERECHOS, PUEDE AFIRMARSE QUE HA INCUMPLIDO EL DEBER DE GARANTIZAR SU LIBRE Y PLENO EJERCICIO A LAS PERSONAS SUJETAS A SU JURISDICCION».

EN LA COMUNICACION QUE REMITIMOS AL SR. PRESIDENTE EL 5 DE JULIO DE 1991, EXPRESABAMOS NUESTRA SATISFACCION POR LA DECLARACION DE SU S.E. DE QUE «HA GIRADO INSTRUCCIONES PRECISAS A TODOS LOS NIVELES PARA QUE SEAN SANCIONADAS EN BASE A DERECHO TODAS AQUELLAS PERSONAS QUE VIOLEN LAS GARANTIAS INDIVIDUALES DE LOS CIUDADANOS». INSTAMOS AL SR. PRESIDENTE A QUE, FIEL AL ESPIRITU DE TAL DECLARACION, TOME LAS MEDIDAS NECESARIAS PARA QUE NO SE OTORGUE UNA INMUNIDAD GENERAL QUE BENEFICIARE A LOS RESPONSABLES DE VIOLACIONES DE DERECHOS HUMANOS, ESPECIALMENTE ANTES DE QUE SE HAYAN LLEVADO A CABO LAS INVESTIGACIONES PERTINENTES, ESTABLECIDO LA RESPONSABILIDAD DE LOS DELITOS, Y DADO A CONOCER TODA LA VERDAD.

MUY ATENTAMENTE,  
IAN MARTIN  
SECRETARIO GENERAL

## TEXT OF TELEX TO PRESIDENT CALLEJAS, 23 JULY 1991 (English version)

Since our letter to you of 5 July, we have received the text of the law, passed by the Legislative Chamber on 10 July and currently pending your approval, which grants a "broad and unconditional amnesty" to those who, prior to the law coming into effect, have been "sentenced, against whom legal proceedings have been or may be initiated for certain political crimes or common crimes linked to them. We understand that these crimes include acts of terrorism as defined in the Penal Code, as well as offences committed by military or police personnel such as unlawful killings, maintaining detainees illegally in incommunicado detention, harassment and torture [vejaciones o apremios ilegales]. We understand also that the amnesty law applies to judges and magistrates who failed to process habeas corpus petitions in accordance with the law.

We have noted that the preamble of the law states that it was passed to contribute to a "climate of harmony and peaceful coexistence" amongst the different sectors of Honduran society and are aware the the law would benefit political prisoners, and campesinos already detained in connection with land disputes, as well as military and police personnel. We are, however, seriously concerned that this law, if brought into effect, could be interpreted to be a blanket amnesty for those responsible for serious human rights violations, particularly given that it could obstruct investigations and prevent the clarification of past human rights violations. As you know, Amnesty International has repeatedly called on the Honduran authorities to take steps to investigate human rights violations, including killings, torture and "disappearances", and to bring to justice those responsible. It is not aware of any police or military official who has been convicted of such offences either under your government or previous ones. Indeed there is little evidence to suggest that gross human rights violations have been fully and impartially investigated. By formally establishing blanket immunity from prosecution for military and police personnel, the amnesty law, if approved would only serve to strengthen the pattern of impunity already existing in Honduras and risks encouraging further human rights violations.

In addition, the new law would be contrary to international principles guaranteeing the rights of victims of human rights abuses, or their relatives, to have their cases fully investigated in order to determine responsibility for the alleged abuses, as well as compensation for any damage, both moral and physical, which they may have suffered. Principle 19 of the **Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**, endorsed in December 1989 by the UN General Assembly, states that: "In no circumstances, including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, arbitrary or summary execution." In its 1991 report, the UN Working Group on Enforced or Involuntary Disappearances concluded, on the question of amnesty laws, that "finds it hard to accept that a consequence - **de facto** o **de jure** - of some of those measures is to prevent investigations being made into the fate or whereabouts of the missing persons. Their relatives, understandably, derive little consolation from such policies, even if they are designed essentially to prevent the recurrence of events such as disappearances." International instruments also call on governments to fully investigate complaints of torture, to identify those responsible and to bring them to justice. As mentioned in our memorandum to you, the principle of full investigations into human rights violations was also stressed by the Inter-American Court on Human Rights in its 1988 ruling on the case of Angel Manfredo Velásquez when it noted that "The State is obligated to investigate every situation involving a violation of the rights protected by the [American] Convention [on Human Rights]. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to persons within its jurisdiction."



In our letter to you of 5 July we welcomed your statement that you "had given precise instructions at all levels that anyone who violates individual guarantees will be sanctioned according to the law." We urge you, in keeping with the spirit of that statement, to prevent any measures which grant blanket immunity from prosecution to those responsible for serious human rights violations, particularly before any investigations have been carried out and before responsibility has been established, and before the full truth has been made known.

Yours sincerely,  
Ian Martin  
Secretary General