

ECUADOR

IMPUNITY. The long road to justice.

Amnesty International is concerned that cases of human rights violations in Ecuador involving members of the security forces have not yet been resolved. Neither the victims of the abuses nor their relatives have received justice or appropriate reparation.

Many of these cases are still before the police courts where the vast majority of those responsible for human rights violations are never punished. Amnesty International believes that impunity is largely due to the fact that these courts have jurisdiction over such cases.

The organization believes that the police courts are neither independent nor impartial and that members of the police who are responsible for committing human rights violations should be brought to trial in civilian courts in accordance with UN international standards. The United Nations Special Rapporteur on Torture concluded back in 1990 that special tribunals such as military or police courts “make no sense at all in cases where members of the security forces have seriously violated a civilian’s basic human rights. Such an act is a offence against the public civil order and, consequently, should be tried by a civilian court”¹ Likewise, the United Nations Human Rights Committee, when defining States’ obligations under the International Covenant on Civil and Political Rights (ICCPR) to bring to trial members of the police and military who commit human rights violations, has repeatedly said that such cases should be heard in ordinary civilian courts. Ecuador is a state party to the ICCPR.

In this context, during the months of January and February 2000, Amnesty International wrote on two occasions to the Ecuadorian authorities expressing the organization’s concern about two cases of human rights violations: that of Aníbal Alonso Aguas Acosta and that of Pedro Geovanny Baque Tuarez and brothers Carlos and Pedro Jaramillo².

The Case of Aníbal Alonso Aguas Acosta

¹ E/CN.4/1990/17, *Infra.* 271, p.83

² See appendixes 1 and 2 for a copy of the letters sent to the Ecuadorian authorities by Amnesty International - TG AMR 28/00.01 and TG AMR 28/00.03.

Aníbal Alonso Aguas Acosta died on 1 March 1997 while being held by the *Policía Nacional del Ecuador*, National Police of Ecuador, in the city of Machala. According to information obtained by Amnesty International, Aníbal Aguas was detained by the police as the result of a dispute with the owner of a grocery store in the city. According to the findings of the *Tribunal Constitucional*, Constitutional Court, in September 1998, while he was in police custody, Aníbal Aguas was “savagely tortured and beaten” and on arrival at the police station was already dead.

According to reports received by the organization, two police officers are currently in detention and are undergoing trial proceedings in a police court in connection with their part in the crime. Amnesty International was dismayed to learn that in September 1998 the Constitutional Court had decided that the case should be referred to the jurisdiction of the police courts. The organization is also concerned that three years after the death under torture of Aníbal Aguas those responsible have still not been punished and the relatives of the victim have not received appropriate reparation.

The Case of Pedro Baque Tuarez and Carlos and Pedro Jaramillo

According to reports received by Amnesty International, on 11 February 1999 Pedro Baque Tuarez and brothers Carlos and Pedro Jaramillo were intercepted by a police van containing eight police officers in the sector of Guabito, Portoviejo, Manabí Province. After ordering them to stop and when Pedro Baque and the Jaramillo brothers had their hands up, one of the policemen shot at Pedro Jaramillo, killing him on the spot. According to these reports, Carlos Jaramillo and Pedro Baque were taken handcuffed and blindfolded to a property belonging to the police at Km. 26 on the Jipijapa Montecristo road where the police officers proceeded to beat them. They shot and killed Carlos Jaramillo. They also shot Pedro Baque, causing a perforation to his abdomen and wounding him in the left arm, cheekbones and jaw. Believing that he was dead, the policemen left him there.

Five members of the police are reportedly at present in preventive custody by order of the *Corte Superior de Justicia*, High Court of Justice, of Portoviejo. However, yet again, the case file has been referred to the jurisdiction of the police courts. Over a year after the events, Pedro Baque and the relatives of the Jaramillo brothers have still not received justice or appropriate reparation.

Amnesty International wrote to the President of the Republic of Ecuador, Gustavo Noboa Bejarano, in February 2000 about the murder of Jaime Hurtado González, Pablo Vicente Tapia and Wellington Borja Nazareno³.

3 Ecuador: Impunity. The long road to justice.

The Case of Jaime Hurtado González, Pablo Vicente Tapia Farinango and Wellington Borja Nazareno

According to reports received by the organization, Jaime Hurtado González and Pablo Vicente Tapia, both members of parliament, and Wellington Borja Nazareno, who was accompanying them, died on 17 February 1999 after being shot near the National Congress in the capital, Quito. The person who fired the shots apparently escaped in a vehicle which was waiting nearby.

According to these reports, three people are in detention on suspicion of being responsible for the killings. Criminal proceedings are also said to be under way against several officers and rank and file members of the National Police of Ecuador for their alleged involvement in the same crime.

On 18 November 1999, the Supreme Court of Justice eventually ruled that a civilian court, the *Corte Superior de Quito*, Quito High Court, should hear the case. However, over a year after the events took place, those believed to be responsible have not been tried or sentenced and the relatives of the victims have not received appropriate reparation.

Conclusions and Recommendations

Amnesty International believes that these cases show that there is still a vicious circle of impunity in Ecuador. The organization believes that immediate steps need to be taken to ensure that those responsible for these human rights violations are brought to trial in an ordinary court, that those found guilty are punished and that the victims or relatives of the victims are given appropriate reparation. Amnesty International considers that, by taking such steps the Ecuadorian authorities would be demonstrating that human rights violations are not to be tolerated in the country.

³ See appendix 3 for a copy of the letter sent by Amnesty International to the President of the Republic of Ecuador - TG AMR 28/00/05.

4 Ecuador: Impunity. The long road to justice.

In its *Report on the Human Rights Situation in Ecuador*⁴, the Inter-American Commission on Human Rights recommended back in 1997 that the Ecuadorian State should take measures to ensure "the thorough and expeditious investigation of all denunciations [...] and the prompt submission of those implicated to the appropriate judicial mechanisms for prosecution and punishment".

Amnesty International is urging the Ecuadorian Government to ensure that anyone who commits human rights violations is brought to justice so that the vicious circle of impunity that exists in Ecuador can be broken. The organization is also calling on the authorities to send a clear and strong message to Ecuadorian society that human rights violations will not be tolerated in Ecuador.

KEYWORDS: IMPUNITY1 / DEATH IN CUSTODY / UNLAWFUL KILLINGS / POLICE

⁴ OAS Document, OAS/SER.L/V/11.96, p.52.

APPENDIX 1

The case of Aníbal Alonso Aguas Acosta

Ref. No.: AMR TG 28/00.01

Ab. Vladimiro Alvarez Grau
Ministro Secretario de Estado de
Gobierno, Policía, Justicia, Cultos y Municipalidades
Ministerio de Gobierno y Policía
Benalcázar y Espejo
Quito
Ecuador

13 January 2000

Dear Minister,

As you know, Amnesty International is a worldwide organization which seeks to ensure observance of all the human rights enshrined in the Universal Declaration of Human Rights. Amnesty International therefore takes action against some of the most serious violations of civil and political rights committed by governments.

In this context, I am writing to you to convey the organization's concerns about the death under torture of Aníbal Alonso Aguas Acosta. Amnesty International is particularly concerned that almost three years after his death those responsible have not been sentenced and his relatives have not received appropriate reparation. Aníbal Aguas died on 1 March 1997 while being held by the National Police of Ecuador in the city of Machala. According to reports received by the organization, Aníbal Aguas was detained by police officers because of a dispute with the owner of a grocery store in the city. According to the findings of the *Tribunal Constitucional*, Constitutional Court in September 1998, while he was in police custody, Aníbal Aguas was "savagely tortured and beaten" and on arrival at the police station he was already dead.

According to reports, two police officers are currently in detention and are undergoing trial proceedings in a police court. Amnesty International was dismayed

to learn that in September 1998 the Constitutional Court had decided that the case fell within the jurisdiction of the police courts. The organization is concerned that in Ecuador officers who have committed human rights violations are tried in police courts. It is public knowledge that in Ecuador the vast majority of those responsible for human rights violations who are tried in police courts are never punished and that the fact that police courts have jurisdiction over such cases is one of the main factors contributing to impunity.

Amnesty International believes that members of the security forces who commit human rights violations should be tried in civilian courts as established by international standards. The United Nations Special Rapporteur on Torture concluded back in 1990 that military and police courts “make no sense at all in cases where members of the security forces have obviously violated a civilian’s basic human rights. Such an act is an offence against the public civil order and, consequently, should be tried by a civilian court”⁵ Likewise, the United Nations Human Rights Committee, when defining States’ obligations under the International Covenant on Civil and Political Rights, to which Ecuador is a party, to bring to trial members of the police and military who commit human rights violations, has repeatedly said that such cases should be heard in ordinary civilian courts.

The organization is concerned that almost three years after the death under torture of Aníbal Aguas those responsible have not been punished. This case demonstrates that a vicious circle of impunity is still in place in Ecuador. By bringing those responsible to justice, punishing those who are found guilty and granting appropriate reparation to the relatives of Aníbal Aguas, your government would be demonstrating that the practice of torture is not to be tolerated in Ecuador.

Yours sincerely,

Javier Zúñiga Mejía Borja
Director
Americas Regional Program

⁵ E/CN.4/1990/17, *Infra.* 271, p.83.

APPENDIX 2

The case of Pedro Geovanny Baque Tuarez and Carlos and Pedro Jaramillo

Ref. No.: AMR TG 28/00.03

Sr. Gustavo Noboa Bejarano
Presidente de la República del Ecuador
Palacio de Carandolet
García Moreno 1043
Quito
ECUADOR

10 February 2000

Dear President,

As you know, Amnesty International is a worldwide organization which seeks to ensure that all the human rights enshrined in the Universal Declaration of Human Rights are observed and respected. Amnesty International therefore takes action against some of the most serious violations of civil and political rights committed by governments.

In this context, I am writing to you to convey the organization's concerns about the violation of the fundamental rights of Pedro Geovanny Baque Tuarez and Carlos and Pedro Jaramillo by persons believed to be members of the National Police. Amnesty International is particularly concerned that almost a year after the incident occurred those responsible have not been brought to justice and neither Pedro Baque nor the relatives of the Jaramillo brothers have received appropriate reparation. According to reports received by the organization, on 11 February 1999 Pedro Baque Tuarez and brothers Carlos and Pedro Jaramillo were intercepted by a police van containing eight police officers in the sector of Guabito, Portoviejo, Manabí Province. After ordering them to stop and when Pedro Baque and the Jaramillo brothers had their hands up, one of the policemen shot at Pedro Jaramillo, killing him on the spot. According to these reports, Carlos Jaramillo and Pedro Baque were taken handcuffed and blindfolded to a property belonging to the police at Km.

26 on the Jipijapa Montecristo road where the police officers proceeded to beat them and shoot and kill Carlos Jaramillo. They also shot at Pedro Baque causing a perforation to his abdomen and wounding him in the left arm, cheekbones and jaw. Believing that he was dead, the policemen left him there.

Five members of the police are reportedly at present in preventive custody by order of the *Corte Superior de Justicia*, High Court of Justice, of Portoviejo. Amnesty International

was dismayed to learn that in January 2000 the judge ruled that the case did not fall within the jurisdiction of the ordinary courts and ordered that the file be referred to the jurisdiction of the police courts. The organization is concerned that in Ecuador members of the police who have committed human rights violations are tried in police courts. It is public knowledge that in Ecuador the vast majority of those responsible for human rights violations who are tried in police courts are never punished and that the fact that police courts have jurisdiction over such cases is one of the main factors contributing to impunity.

Amnesty International believes that members of the security forces who commit human rights violations should be tried in civilian courts as established by international standards. The United Nations Special Rapporteur on Torture stated back in 1990 that military and police courts “make no sense at all in cases where members of the security forces have obviously violated a civilian’s basic human rights. Such an act is an offence against the public civil order and, consequently, should be tried by a civilian court.”⁶ Likewise, the United Nations Human Rights Committee, when defining States’ obligations under the International Covenant on Civil and Political Rights, to which Ecuador is a party, to bring to trial members of the police and military who commit human rights violations, has repeatedly said that such cases should be heard in ordinary civilian courts.

On 13 January last Amnesty International wrote to the Minister of the Interior, Police, Justice, Worship and Local Government, Vladimiro Alvarez Grau, expressing concern at reports of the death under torture of Aníbal Alonso Aguas Acosta and at the decision taken by the Constitutional Court to refer the case to the police courts. Please find attached a copy of the letter.

We would like to point out once again, as we did in the letter to the Minister of the Interior and Police, that cases such as those of Aníbal Alonso Aguas and of Pedro Baque and the Jaramillo brothers demonstrate that a vicious circle of impunity

⁶E/CN.4/1990/17, *Infra.* 271, p.83.

is still in place in Ecuador. By bringing those responsible to justice, punishing those who are found guilty and granting appropriate reparation to Pedro Baque and the relatives of Aníbal Alonso Aguas and Carlos and Pedro Jaramillo, your government would be demonstrating that the practice of torture and extrajudicial executions are not to be tolerated in Ecuador.

I would be grateful if you would keep me informed of any measures your government takes in this regard.

Yours sincerely,

Javier Zúñiga Mejía Borja
Director
Americas Regional Program

APPENDIX 3

The case of Jaime Hurtado González, Pablo Vicente Tapia Farinango and Wellington Borja Nazareno

Ref. No.: AMR TG 28/00.05

Sr. Gustavo Noboa Bejarano
Presidente de la República del Ecuador
Palacio de Carondelet
García Moreno 1043
Quito
ECUADOR

23 February 2000

Dear President,

As you know, Amnesty International wrote on 13 January 2000 to the then Minister of the Interior, Police, Justice, Worship and Local Government, Vladimiro Alvarez Grau, to express concern at reports of the death under torture of Aníbal Alonso Aguas Acosta and about the decision taken by the Constitutional Court to refer the case to the jurisdiction of the police courts. The fact that the vast majority of those responsible for human rights violations in Ecuador who are tried in such courts are never punished is one of the main factors contributing to impunity. The organization also wrote to you on 10 February 2000 to convey our concerns about the case mentioned above and about violations of the fundamental rights of Pedro Geovanny Baque Tuarez and Carlos and Pedro Jaramillo, in particular the fact that almost a year after the murder of the Jaramillo brothers and the attempted murder of Pedro Baque those responsible have not been tried and neither Pedro Baque nor the relatives of the Jaramillo brothers have received appropriate reparation.

We are writing to you again today to express our deep concern at the continuing circle of impunity in Ecuador. On this occasion, the organization would like to raise the case of the murder of Jaime Hurtado González, Pablo Vicente Tapia Farinango and Wellington Borja Nazareno. According to reports received by the organization, Jaime Hurtado González and Pablo Vicente Tapia, both members of parliament, and Wellington Borja Nazareno, who was accompanying them, died on 17 February 1999 after being shot near the National Congress in the capital, Quito. The person who fired the shots apparently escaped in a vehicle which was waiting nearby.

According to information received by Amnesty International, three people are in detention on suspicion of being responsible for the killings. Criminal proceedings are also said to be underway against several officers and rank and file members of the National Police of Ecuador for their alleged involvement in the same crime. However, the organization was dismayed to learn that, a year after the deaths of Jaime Hurtado, Pablo Vicente Tapia and Wellington Borja, those responsible have not been brought to trial and sentenced.

While welcoming the setting up of the *Comisión Especial de Investigación*, Special Investigating Commission, by the former President of Ecuador, Dr Jamil Mahuad Witt, to establish the circumstances surrounding the deaths of Jaime Hurtado, Pablo Vicente Tapia and Wellington Borja, Amnesty International is concerned at the apparent lack of support it is receiving from the Ecuadorian Government to carry out its investigations and to find the culprits.

We would like to reiterate, as in our letter of 10 February 2000, that punishing those responsible and granting appropriate reparation to the victims of human rights violations or their relatives would serve to demonstrate that the practice of torture and extrajudicial executions are not to be tolerated by the authorities in Ecuador. In 1997 the Inter-American Commission on Human Rights recommended, in its *Report on the Situation of Human Rights in Ecuador* (OAS Document, OAS/SER.L/V/11.96, page 52), that the Ecuadorian State should ensure “the thorough and expeditious investigation of all denunciations [...] and the prompt submission of those implicated to the appropriate judicial mechanisms for prosecution and punishment”.

I would be grateful if you would keep me informed of any measures your government takes in this regard.

Yours sincerely,

Javier Zúñiga Mejía Borja
Director
Americas Regional Program