

PUBLIC

AI Index: AMR 28/015/2004

05 May 2004

Further Information on UA 344/03 (AMR 28/14/2003, 24 November 2003) and follow-up (AMR 28/015/2003, 26 November 2003) - Fear for safety/Possible "disappearance" New Concern: Harassment

ECUADOR

Jhonny Elías Gómez Balda (m)
César Augusto Mata Valenzuela (m)
Edwin Daniel Vivar Palma (m)
Seidi Natalia Vélez Falcón (f)

New name:

José Solís Solís (m) - Journalist

Amnesty International is concerned for the safety of José Solís Solís, a journalist with *El Universo* newspaper in the city of Guayaquil. He received threatening telephone calls in April 2004 and has also been followed by unknown individuals.

On 26 April, José Solís Solís received two telephone calls from an anonymous caller who said: "Is this Solís? Tell him to stop bothering us, we will be released soon" ("*¿El Licenciado Solís? Dígale al Licenciado Solís que no se meta con nosotros que ya vamos a salir*"). Two weeks earlier he was near his home, when an unknown individual travelling with three other men in a white car with no number plates, shouted at him: "be careful" ("*cuidate*"). José Solís Solís has reported both incidents to the Attorney General's office.

The threats against José Solís Solís appear to be linked to his reporting of the alleged extra-judicial execution of suspected robbers by members of the police and the alleged "disappearance" of Jhonny Elías Gómez Balda, César Augusto Mata Valenzuela and Edwin Daniel Vivar Palma, who were also reportedly detained during the same operation.

According to reports, Jhonny Elías Gómez Balda and César Augusto Mata Valenzuela were detained by police on 19 November 2003 in connection with a robbery at a chemist in the city of Guayaquil. A third man, Edwin Daniel Vivar Palma, was reportedly also detained in connection with the robbery. In December 2003, the Inter-American Commission of Human Rights (IACHR) ordered precautionary measures on behalf of Jhonny Elías Gómez Balda, César Augusto Mata Valenzuela and Edwin Daniel Vivar Palma and Seidi Natalia Vélez Falcón. The IACHR also ordered the Ecuadorian state to adopt measures to establish the whereabouts of the three men who are still "disappeared".

According to information from the Prosecutor's office in Guayaquil, police officers who took part in the operation stated that three individuals were detained following the attempted robbery of a chemist's. They were then later released by the higher ranking officer in charge of the operation "once he examined the detainees and checked that they were not involved in the robbery" ("*al examinar a los detenidos y ver que no tenían nada que ver con el robo*"). According to the police, the men were not taken to a detention centre and Jhonny Gómez Balda was not amongst the detainees.

The detainees' families however, insist that their relatives called them from their mobile phones and stated that they were being held in the detention centre at the Judicial Police Headquarter in Guayaquil. They were reportedly in fear for their lives. César Augusto Mata Valenzuela's brother has reportedly been accused of being an accomplice in the robbery because he received a phone call from his brother's mobile phone.

Amnesty International has no new information about Seidi Natalia Vélez Falcón who is still under detention in connection with the robbery. The organization is not aware whether she has had access to a lawyer and a doctor.

The twenty police officers who took part in the police operation in the chemist's in Guayaquil were charged with abuse of power (*abuso de facultades*), following the alleged extrajudicial execution of six suspected robbers, the killing of an employee and a client and the alleged "disappearance" of Jhonny Elías Gómez Balda, César Augusto Mata Valenzuela and Edwin Daniel Vivar. Fourteen of the twenty officers have now been released without charge by a police court. The other six officers, including the higher ranking officer in charge during the operation, were granted conditional release on 30 April while they await trial in a police court.

BACKGROUND INFORMATION

During a recent visit to Ecuador, an Amnesty International delegation launched the report *Ecuador: With no independent and impartial justice there can be no rule of law*, (AMR 28/010/2003, October 2003). The delegation met with the authorities, including members of the National Police Court, representatives of the President and Minister of the Interior and Members of Congress. The delegation expressed deep concern at what appears to be a lack of political will to end police brutality. Members of the police who are accused of committing human rights violations are usually tried in police courts where they mostly go unpunished. In addition, victims, their families, and witnesses often receive death threats in an attempt to make them withdraw their accusations.

The delegation welcomed the fact that these authorities agreed that if the circle of impunity that engulfs most cases of human rights violations is to be broken, members of the security forces who are charged with human rights violations have to be investigated and tried in civil courts. The only authorities who disagreed were the leadership of the National Police including its Commander in Chief. However, Amnesty International continues to receive reports that cases of alleged human rights violations, in which members of the police appear to be involved, continue to be tried in police courts.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Spanish or your own language:

- expressing concern for the safety of José Solís Solís who was threatened in April 2004;
- pointing out that the threats appear to be linked to the journalist's reporting of an alleged extra-judicial execution of six suspected robbers in a chemist's in Guayaquil by the police, and the "disappearance" of three men also accused of the robbery following their arrest by members of the Guayaquil police;
- calling on the authorities to open an impartial, independent and thorough investigation into the alleged threats reported by José Solís Solís in April 2004, and bring those responsible to justice;
- calling on the authorities to take the necessary measures to guarantee the safety of José Solís Solís;
- reminding the authorities of their duty to ensure that human rights violations are investigated and punished in independent and impartial civilian courts;
- urging the authorities to do everything within their power to establish the fate and whereabouts of Edwin Daniel Vivar Palma, César Augusto Mata Valenzuela and Jhonny Elías Gómez Balda, who have not been seen since 19 November 2003,
- calling for Seidi Natalia Velez Falcon to be given immediate access to a lawyer, to relatives and any medical treatment she may require and calling on the authorities to guarantee that she is treated humanely in detention and is not subjected to torture or ill-treatment.

APPEALS TO:

Minister of the Interior and Police
Ing. Raúl Baca Carbo
Ministro de Gobierno, Policía,
Justicia, Cultos y Municipalidades
Ministerio de Gobierno y Policía
Benalcázar y Espejo
Quito, ECUADOR

Fax: + 593 2 2580 067

Salutation: Dear Minister / Sr. Ministro

Attorney General
Dra. Mariana Yépez de Velasco
Ministra Fiscal General del Estado
Fiscalía General del Estado

Av. Eloy Alfaro N° 32-240 y República
Quito, ECUADOR

Fax: + 593 2 2558 561

Salutation: Dear Attorney General/ Sra. Fiscal General

COPIES TO:

Human rights organization

Comité Permanente por la Defensa de los Derechos Humanos

Quisquis 1207 y Esmeraldas 4° piso Oficina 403

Guayaquil, ECUADOR

E-mail: cdhgye@telconet.net

and to diplomatic representatives of Ecuador accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 16 June 2004.