

PUBLIC

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UA 35/06 Legal concern/ harassment

MEXICO Angel Mario Ksheratto Flores (m), journalist

Angel Mario Ksheratto Flores, a journalist from Chiapas State, southern Mexico, was re-arrested on 4 February for reportedly breaking bail conditions imposed after he was charged with defamation in 2003. Amnesty International believes that his re-arrest may constitute judicial harassment, and that his case fits a pattern of intimidation of journalists with the intention of restricting freedom of expression.

Angel Mario Ksheratto, who works for the Chiapas newspaper *Cuarto Poder*, was first detained on 9 January 2003 by agents of the Chiapas State Prosecutor's Office (*Fiscalía General de Justicia del Estado*) (see UA 17/03, AMR 41/003/2003, 17 January 2003). This followed a criminal complaint of defamation filed by a senior state official in relation to articles written by Angel Mario Ksheratto for *Cuarto Poder* in 2002 alleging official corruption and misuse of funds by a member of the state-run Schools Construction Committee (*Comité de Construcción de Escuelas*.) He was released on bail pending outcome of his trial. Trial proceedings in Mexico can continue for several years in some cases, and his trial is still in progress.

According to reports, the judge ordered Angel Mario Ksheratto's re-arrest on 4 February 2006 after he failed to register at the local criminal court (*juzgado*) every week, as stipulated by his bail conditions. Following his re-arrest, Angel Mario Ksheratto stated that he had failed to register because the court office had been transferred from the state capital of Tuxtla Gutierrez, where he currently lives, to the municipality of El Amate, 90km away. He also reported that during the last visit he made to the local criminal court, he had been told to return on a different date to register. However, when he returned he was informed that he should have registered on his previous visit. Furthermore, he had filed a petition to the local criminal court requesting that he only be required to sign in every two weeks on grounds of the difficulties of travelling to El Amate every week. His petition was refused by the court.

Angel Mario Ksheratto is currently detained in the municipality of El Amate, in Chiapas State. According to reports, a local judge is considering imposing bail of US\$20,000 in order for the journalist to be released. This figure is reportedly far beyond his means and would constitute a disproportionate obstacle to pre-trial liberty for a non-serious offence. This raises serious concern about whether the court hearing the defamation charges against Angel Mario Ksheratto is sufficiently independent and impartial to meet international standards for fair trial.

BACKGROUND INFORMATION

Defamation is a criminal offence in Mexico and is sometimes used to silence and intimidate journalists reporting on matters of public interest, thereby restricting freedom of expression. Chiapas State has the harshest legislation in Mexico on defamation, having introduced new reforms to the State Penal Code in May 2004 which increases the prison sentence for defamation to between three and nine years. Before this reform was introduced the sentence was between two and five years. National and international human rights organizations, including the Inter-American Commission on Human Rights, have repeatedly called for defamation legislation to be reformed in order to make it civil offence and not subject to detention. In October 2005 Enrique Zamora, director of the newspaper *El Orbe* in Tlapachula, Chiapas, was detained overnight by police and interrogated in relation to allegations of defamation. His newspaper had reported allegations of official corruption in the response to Hurricane Stan. International and national concern at his detention led to his release without charge.

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

- expressing concern at the re-arrest of Angel Mario Ksheratto Flores after he reportedly broke bail conditions imposed in 2003;
- expressing concern that his detention and any excessive bail conditions imposed may constitute harassment for his legitimate work as a journalist;
- calling on the authorities to guarantee the prompt and impartial application of international human rights standards to ensure Angel Mario Ksheratto receives a fair trial;
- expressing concern that defamation legislation in Chiapas places excessive restriction on freedom of expression and is being used to deter journalists from investigating and publishing material of legitimate public interest;
- calling for the implementation of the Inter-American Commission on Human Rights' recommendation to make defamation and liable civil offences not liable to imprisonment.

APPEALS TO:

Governor of Chiapas

Lic. Pablo Salazar Mendiguchía

Gobernador del Estado de Chiapas,

Palacio de Gobierno, Piso 1, Col. Centro 29000, Tuxtla Gutiérrez, Chiapas, Mexico.

Fax: + 52 961 61 209 17/ 256 18 (if someone answers, ask "tono de fax, por favor")

Salutation: Estimado Sr. Gobernador/Dear Governor

Attorney General of Chiapas

Lic. Mariano Herrán Salvatti

Fiscal General de Justicia del Estado de Chiapas

Libramiento Norte s/n, tercer nivel, Colonia Infonavit "El Rosario", CP 30064

Tuxtla Gutiérrez, Chiapas, Mexico

Fax: + 52 961 61 657 24

Salutation: Estimado Sr. Fiscal/Dear Attorney General

Director of Human Rights – Interior Ministry

Dr. Ricardo Sepúlveda

Secretaría de Gobernación,

Reforma 99, Piso 21, PH, Colonia Tabacalera, CP. 06030, México DF, Mexico

Fax: +52 55 51 28 0234 (if someone answers, say "tono de fax, por favor")

Salutation: Estimado Doctor/Dear Dr Sepúlveda

President of the National Commission of Human Rights

Dr. José Luis Soberanes Fernández

Presidente de la Comisión Nacional de Derechos Humanos (CNDH)

Periférico Sur 3469, 5º piso, Col. San Jerónimo Lídice, México D.F. CP 10200

Fax: +52 55 5681 7199

Salutation: Estimado Presidente de la Comisión/Dear President

COPIES TO:

Centro de Derechos Humanos Fray Bartolomé de las Casas A.C

Brasil No. 14 Barrio Mexicanos, CP. 29240, San Cristóbal de las Casas, Chiapas, Mexico

Fax: +52 967 67 83551 (if someone answers, say "tono de fax, por favor")

and to diplomatic representatives of Mexico accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 24 March 2006.