

BOLIVIA

The need to protect Human Rights Defenders

Introduction

The defence of human rights in Bolivia continues to be subjected to threats and harassment. Although there are no legal restriction to carrying out legitimate work in favour of human rights, defenders continue to be at risk. Amnesty International has recorded a worrying trend of attacks, threats and intimidation of lawyers and members of non-governmental organizations (NGOs) which, in some cases, extends to their families. The organization is concerned at the lack of immediate, independent, impartial and conclusive investigations into complaints of threats and intimidation against human rights defenders in Bolivia.

Human rights defenders are men and women who take individual or collective action to contribute to the elimination of all violations of the basic rights of peoples and individuals. This work includes the search for truth and justice; the fight for gender and racial equality; the protection of economic, social and cultural rights, and of the rights of indigenous peoples and the environment; and the fight against hunger, poverty and discrimination. Defenders work in diverse sectors of society and their work is inspired by and based on human rights standards.

Amnesty International has repeatedly asked Bolivian national and departmental authorities for information on measures taken to ensure the protection and promotion of work carried out by human rights defenders. The organization has asked the authorities for information on what steps they have taken to ensure the integrity of defenders and to end violations of their rights. Likewise, Amnesty International has emphasized that investigations into denunciations should be started immediately, conducted impartially, be thorough, that their methods and results are made public and that those responsible are brought to justice.

On 6 August 2002, Gonzalo Sánchez de Lozada of the National Revolutionary Movement began his constitutional five year term of office as President of Bolivia. Although most of the cases presented in this report refer to previous administrations, international standards establish that states are obliged to investigate denunciations of human rights violations and should bring those responsible to justice even if the violations occurred during the previous administration. Amnesty International is presenting its concerns to the government of President Gonzalo Sánchez de Lozada and renewing its call for it to take effective measures to ensure the protection and promotion of the work undertaken by human rights defenders.

Amnesty International believes that the work of human rights defenders represents a basic element in building a state that complies with the law and respects human rights. In all societies, whatever the degree of democracy they enjoy, the independent vigilance exercised by civil society is an important contribution to ensuring that governments protect human

rights and act within the framework of the laws, treaties and contracts agreed with society and the international community. The best safeguard for the human rights of all people is to subject the state to reasonable public vigilance and promote the participation of the community in this process. Through campaigns and debates, human rights defenders promote legal safeguards and reforms that can contribute to preventing abuses, and constantly remind governments that they must comply with their promises and legal and constitutional obligations to protect citizens' rights.

According to the Secretary General of the United Nations (UN): "*Human rights defenders are at the core of the human rights movement the world over [...] They form the base that regional and international human rights organizations and mechanisms, including those within the United Nations, build upon in the promotion and protection of human rights.*"¹

The Assistant Secretary General of the Organization of American States (OAS) described them as being "*essential in our time*". Defenders are the voice of those who have no voice, vital instruments to safeguard the rights of victims and society in general.

The right to defend human rights is set out in the Declaration on the right and responsibility of individuals, groups and organs to promote and protect universally recognized human rights and fundamental freedoms, known as the Declaration on Human Rights Defenders.

International protection of human rights defenders

The right to defend human rights is protected by a series of international standards and principles. On 9 December 1998, on the eve of the 50th anniversary of the Universal Declaration of Human Rights, the General Assembly of the United Nations adopted a *Declaration on the Right and Responsibility of Individuals, Groups and Organs to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*.

The Declaration sets out the rights of human rights defenders, indicating the freedoms and activities that are fundamentally important to their work, including the right to know, seek, obtain and receive information on human rights and fundamental freedoms; the right to participate in peaceful activities against violations of these rights; the right to criticize and denounce non-compliance by governments of human rights standards and to formulate proposals to improve the situation. On referring to the right to act collectively, the Declaration pays special attention to the right to association and the right to act with others to protect human rights. The Declaration demands that states act with regard to these rights and freedoms to ensure that human rights defenders can carry out their work in freedom, without interference and without fear of threats, reprisals or discrimination. The text of the Declaration is included as Appendix I of this report.

¹ UN Document A/55/292, 11 August 2000.

The Declaration on Human Rights Defenders sets out a series of principles based on legal human rights standards enshrined in international law and adopted by all member states of the United Nations through their participation in the UN's General Assembly, including Bolivia. To encourage compliance, the 1999 sessions of the UN Human Rights Commission asked all states to implement the Declaration and to provide information about their efforts to do so. In addition, the Commission urged all UN human rights bodies and mechanisms to take the provisions of the Declaration into account in their work.² The UN Secretary General appointed a special representative on human rights defenders, with a remit to supervise, document and intervene on behalf of defenders in danger.

In June 1999, the governments of America recognized the importance of the people, groups and non-governmental organizations that promote human rights, with the adoption by the OAS General Assembly of a resolution entitled "*Human Rights Defenders of the Americas*"³. The governments of the OAS expressed their intention to disseminate the UN Declaration on Human Rights Defenders. In practical terms, they agreed: "*To recognize and support the work carried out by Human Rights Defenders and their valuable contribution to the promotion, observance, and protection of fundamental rights and freedoms in the Americas.*" The resolution requested 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*", and to adopt the necessary steps to guarantee their life, liberty, and integrity."

In June 2000, the General Assembly of the OAS adopted another resolution on defenders, in which it reiterated its support for their valuable work and urged "*member states to intensify their efforts to adopt the necessary measures, in keeping with their national laws, to guarantee the life, personal well-being, and freedom of expression of human rights defenders, in keeping with internationally accepted principles and standards.*"⁴

However, the commitments shouldered by Bolivia in the United Nations Declaration on Human Rights Defenders and the OAS resolutions have not been reflected in practical action to guarantee the work and integrity of defenders in Bolivia. The Human Rights Committee of

² The UN has special rapporteurs, representatives, independent experts and working groups nominated (generally by the UN Human Rights Commission) to study specific cases of human rights violations, independently of the country where they take place. Other country mechanisms are dedicated to studying the human rights situation in particular countries.

³ AG/RES 1671 (XXIX -0/99)

⁴ AG/RES 1711 (XXX-0/00)

the United Nations observed, with concern that human rights activists in Bolivia “*are subject to intimidation, thus facing serious obstacles in the legitimate exercise of their rights.*”⁵

Amnesty International has recorded, with concern, that the legitimate work of human rights defenders in Bolivia has been undermined by a lack of determined support from national and departmental authorities. Likewise, the physical integrity of defenders and their families has been repeatedly threatened. On some occasions, restrictions imposed on the access of civilians to the El Chapare region, when it was known or suspected that serious human rights violations were being committed, prevented the adequate documentation of human rights violations, including those committed against human rights defenders. For example, in April 1998, the Bolivian army closed various districts of El Chapare⁶, and limited access to civilians, including the media and members of national human rights organizations.

The violations of the human rights of defenders included in this document are a partial illustration of the difficulties met by human rights defenders in Bolivia since 1997. These cases show how individuals and members of NGOs who work to defend human rights in Bolivia have been the target of serious violations, including torture, ill-treatment and arbitrary detention. We are especially concerned that although the attacks and threats have been denounced to the Bolivian authorities, the investigations that we have been told have been started do not seem to have made any progress.

Defenders who work against impunity

Asamblea Permanente de Derechos Humanos (APDH) Permanent Human Rights Assembly of Bolivia

The APDH, founded in 1976, is a Bolivian NGO that is well known and respected for its constant work on behalf of human rights. APDH representatives have been subjected to constant threats and harassment and, on some occasions, their departmental offices have been attacked. Amnesty International has recorded, with concern, serious and repeated incidents involving APDH members, including torture, abduction, detention, assaults, threats and harassment. The examples mentioned below are the most significant cases.

⁵ Final observations of the Human Rights Committee: Bolivia, CCPR/C/79/ Add. 74; 5 May 1997, Para.16.

⁶ El Chapare is the area where coca-leaf is grown in Bolivia. Most of El Chapare is located in the department of Cochabamba. Amnesty International has been documenting human rights violations there for some years. They include extra-judicial executions and torture, committed by members of the Bolivian security forces, in the context of the agreements between the Bolivian government and the United States to eradicate the cultivation of coca-leaves in the area.

Waldo Albarracín

The attacks, intimidation and threats suffered by Waldo Albarracín, lawyer, human rights defenders and national president of the Bolivian APDH shows the difficulties that defenders face in Bolivia.

The most serious attack suffered by Waldo Albarracín was on 25 January 1997, when he was abducted and tortured by police officers. Waldo Albarracín was travelling by public transport to San Andrés de la Paz University, where he is a professor, when a group of eight men in civilian clothes forced him into a vehicle, blindfolded him, tied his hands, beat him around the head, ears and testicles, and threatened to kill him. A few hours later, they left him in a seriously injured state at the premises of the *Policía Técnica Judicial (PTJ)* Legal Technical Police in La Paz. Due to the serious injuries sustained in the attack, Waldo Albarracín had to be hospitalized.⁷

Two days after the incident and after national and international protests, the Chamber of Deputies' *Comisión de Constitución, Justicia y Policía Judicial*, Constitution, Justice and Judicial Police Commission began an investigation. Two years later, in April 1999, it ordered the prosecution of four police officers for kidnap and torture. The case against two of the officers was later dropped. Charges remain against the two other officers but the case has not progressed.

Amnesty International has received no official indication that the police officers implicated in the case have been suspended from active service. The organization emphasizes the observations made by the Human Rights Committee: "*Members of the armed forces and other government officials who were involved in the most serious human rights violations have not always been dismissed and continue to take advantage of their positions, thus reinforcing impunity within the State Party.*"⁸

Likewise, it is important to recall that the United Nations Special Rapporteur on Torture, Sir Nigel Rodley, said: "*Any public officials indicted for abuse or torture should be suspended from duty pending trial*"⁹. The Rapporteur also recommended that: "*Any public official indicted for infliction of or complicity in torture and ill-treatment should be suspended from duty.*"¹⁰ Prior to that, in 1996, the Special Rapporteur had included the following argument in

⁷ For more information on the attack on Waldo Albarracín, see *Bolivia: Undermining work on behalf of human rights*, May 1997 (AI Index number AI AMR 18/10/97/s)

⁸ Final observations of the Human Rights Committee: Bolivia. CCPR/C/79/ad.74; 5 May 1997, Para.15.

⁹ Rapporteur's Report on Rumania, 23 November 1999, E/CN.4/2000/9/add.3, Para.57 (k).

¹⁰ Rapporteur's Report on Turkey, 27 January 1999, E/CN.4./1996/61/Add.1,Para.113(h).

his recommendations: “Persons alleged to have committed acts of torture should be suspended from official duties during the investigation.”¹¹

After the attack suffered in 1997, Waldo Albarracín has continued to be the victim of harassment against him and his family, including death threats. These threats seem to be related to the legal case brought against the police officers implicated in his abduction and torture. In addition, the apparent failure of the authorities to make effective guarantees to protect his and his family’s integrity forced him to change his address in March 1997.

On 5 February 1998, Waldo Albarracín and his family again received telephone death threats. The threats were repeated on 24 September 1999, the day on which the police officers accused of torturing Waldo Albarracín were due to appear in the Tenth Criminal Court, La Paz. On that occasion, his family received a telephone call from an unidentified person who asked to speak to the son of Waldo Albarracín by name, and referred to the murder and rape of a woman, committed a few days previously. Despite repeated calls from Amnesty International and other human rights organizations, expressing their concern for his security, these threats against Waldo Albarracín and his family have not been properly investigated.¹²

The harassment continued in 2001. According to our information, on 22 February 2001, Waldo Albarracín’s son answered the telephone at home and the caller told him that his father had been “sentenced to death”. The APDH denounced the threat to the Chamber of Deputies Human Rights Commission; the *Defensoría del Pueblo*, Ombudsman; the Ministry of Justice and Human Rights; and the Ministry of the Interior, asking them to conduct an exhaustive investigation. A few days later, Waldo Albarracín’s wife received another telephone message from an unidentified person. This person told her that her husband had received a second warning and that the death threat applied to the whole family. On 5 March, the Albarracín family received another telephone threat. On the basis of these threats, the Bolivian authorities ordered a police investigation and asked Waldo Albarracín for the tapes of the telephone calls to his home in January and February 2001. Amnesty International has received no news about the results of this investigation.

Adalberto Rojas

The lawyer, Adalberto Rojas, President of Santa Cruz Department APDH, was detained in the Santa Cruz PTJ offices on 22 June 2000, when, along with other lawyers, he was representing a young person who had been arrested during a demonstration by Enrique Finot School students. The prosecutor charged with the case did not allow Adalberto Rojas nor the other lawyers who accompanied him to speak or intervene on behalf of the student, and threatened them with arrest. According to reports, some of the APDH lawyers objected to the prosecutor’s attitude. The prosecutor responded by ordering the arrest of Adalberto Rojas and

¹¹ Rapporteur’s Report on Chile, 4 January 1996, E/CN.4/1996/35/Add.2, Para.76 (j).

¹² See AU 27/97, AMR 18/02/97/s, 28 January 1997, and updates - AMR 18/04/97/s, 21 February 1997, AMR 18/06/97/s, 19 March 1997, AMR 18/07/97/s, 14 April 1997, and AMR 18/11/97/s, 12 September 1997; AU 40/98 AMR 18/01/98/s, 10 February 1998; AU 258/99, AMR 18/02/99/s 4 October 1999.

the other lawyers. Finally, only Adalberto Rojas was detained on the prosecutor's premises, and this, only for a short time. The prosecutor released him and told him he had at no point arrested him. Adalberto Rojas left the office but police officers guarding the entrance of the PTJ would not let him leave the building, so he stayed in the patio of the PTJ until the prosecutor had left the building. The student was released on the following day.

En 1999, Adalberto Rojas received death threats after denouncing the ill-treatment of a group of people being held in custody by the *Fuerza Especial de Lucha contra el Narcotráfico*, Special Anti-Drug Trafficking Force, in Santa Cruz.

Sacha Llorenti Soliz

In August 2000, Sacha Llorenti Soliz, APDH Secretary for Legal Affairs, received a death threat on his mobile phone. He was told: "*your time has come*" and insulted.

Sacha Llorenti had presented judicial complaints and requested independent investigations into human rights violations that took place during the state of siege in April of that year.¹³

Amnesty International has conveyed its concern to the authorities about this incident.¹⁴ In November 2000, the Ministry of the Interior gave Amnesty International information presented by the *Viceministro de Régimen Interior, Policía y Seguridad Ciudadana*, Deputy Minister of Internal Affairs, Police and Public Security, in which he asserted that the Interior Ministry had granted Sacha Llorenti Soliz, "*all the guarantees prescribed in the Constitution of the Bolivian State*" and that "*he would instruct the relevant authority to carry out the investigation that the case warrants*". Amnesty International is not aware of any investigation being opened into the case or of any progress such an investigation may have made.

Harassment of defenders working in rural areas

Padre Luis Portillo

Other APDH members carrying out legitimate human rights work in rural areas have been the victims of harassment by government officials and members of the police. These include Father Luis Portillo, APDH Vice President in Tarija Department.

According to reports, on 4 March 2002, Father Luis Portillo, accompanied by César Blanco Álvarez, a lawyer at the *Centro de Estudios Jurídicos e Investigación Social (CEJIS)*, Centre for Legal Studies and Social Research, and Damián Anagua, the regional leader of the peasant

¹³ The government of the then President, Hugo Banzer, declared a state of siege on 8 April 2000 in response to protests against a government water management project in the town of Cochabamba which would have resulted in an increase in water charges. Several people were killed before the state of siege was lifted on 20 April and ill-treatment, harassment and the illegal detention of minors were denounced.

¹⁴ AU 238/00, AMR 18/10/00/s, 10 August 2000

movement *Movimiento Sin Tierra*, were reportedly in the offices of the *Instituto Nacional de Reforma Agraria (INRA)*, National Institute for Agrarian Reform, to resolve land issues in Gran Chaco Province, Tarija Department. While there, participants in a peasant demonstration entered the building. While the members of the commission were talking with the peasants, INRA officials threatened to imprison members of the commission, pointing at Father Portillo and saying “*I don’t care if you are a priest, I’ll still send you to prison*”. The officials proceeded to open the windows to allow access to members of the police who entered carrying their statutory arms, and threatened to make Father Portillo “disappear”.

The lawyers César Blanco and Damián Anagua, who were accompanying Father Luis Portillo, were also harassed. Amnesty International asked the Bolivian authorities for information on the investigations carried out into the incident. The organization has not so far received any reply from the authorities.

The El Chapare Region

Amnesty International continues to receive denunciations of excessive use of force and ill-treatment of detainees by security forces involved in operations by the *Fuerza de Tarea Conjunta (FTC)*, Joint Task Force, a joint army and police force trying to eradicate coca-leaf crops in the region of El Chapare, Cochabamba Department. According to reports, a significant number of deaths have occurred during FTC operations – most of them peasants but also members of the security forces – and an undetermined number of injuries and arrests. The organization has repeatedly expressed its concern at the human rights violations in this area of the country and has asked the authorities to launch an independent and exhaustive investigation by the civilian courts on the facts and the disturbances. Amnesty International has expressed its concern at the vulnerability of human rights defenders in the area, who have reportedly been victims of police violence, threats, intimidation and arbitrary arrest.

Rolando Gutiérrez Aguilar

Human rights defenders, who made themselves available to facilitate dialogue between peasants and the authorities during the demonstrations and roadblocks in the El Chapare area in November 2001, were attacked by the security forces. For example, Rolando Gutiérrez Aguilar, President of Eterazama APDH, Cochabamba Department, was injured on three occasions by members of the security forces in less than a week. The first assault took place on 8 November when Rolando Gutiérrez was beaten with clubs by members of the joint forces. Two days later, he was injured in the head by a tear gas canister. Two days after that incident, three members of the security forces kicked him, hit him with clubs and struck him with the butt of a revolver, while threatening him. Later, they temporarily detained him and confiscated his camera and APDH membership identification document. The camera was returned to him when he was released.

The Eterazama APDH office has been a target for attack. On 13 November 2001, members of the security forces reportedly fired on the regional APDH offices. Although nobody was wounded, six people were on the premises at that time. Representatives of the Catholic Church, the Ombudsperson Human Rights Office and the national APDH travelled to Eterazama to document the facts and make the appropriate denunciation. Amnesty

International has received no information to indicate any progress in the investigation of this serious incident.

Other APDH members have suffered threats, harassment and assault. On 19 January 2002, Father **Luis Sánchez**, President of the Cochabamba APDH, was pushed by police officers who threatened to throw a pepper gas canister at him when he tried to identify a group of peasants detained on a lorry. One week later, he was hit by police officers while he was waiting to interview detainees in the cells of the Judicial Police.

According to information received by Amnesty International, in July 1998, Father **Hugo Ortiz**, a catholic priest and President of Caranavi APDH, La Paz Department, was struck by members of the *Unidad Móvil de Patrullaje Rural (UMOPAR)*, Mobile Rural Patrol Unit, when he was travelling to a meeting in the diocese. No disciplinary measure was taken against the presumed authors of the attack. **Arturo Alessandri**, President of Oruro APDH, was also threatened by a judicial official who said he would prosecute him for opposing the illegal detention of a minor. With regard to this case, the organization has not received information to indicate that an investigation has been started.

Harassment of defenders working with indigenous and peasant communities

Centro de Estudios Jurídicos e investigación Social (CEJIS) Centre for Legal Studies and Social Research

CEJIS is a Bolivian organization based in Santa Cruz, which offers legal aid and promotes the protection of the land rights of indigenous and peasant communities. The lawyers who work on cases related with land ownership have been harassed by members of the police and individuals who act with impunity.

Leonardo Tamburini

With regard to attempts to resolve land issues in the Territory of Monte Verde, in the north of Santa Cruz Department, Amnesty International has recorded attacks against lawyers who represent the Chiquitanos indigenous community in their land claims. The territory of Monte Verde was recognized by INRA Law 1715, promulgated by the President of the Republic of Bolivia on 18 October 1996. The Law ordered the resolution of land issues and granting of land titles in the territory within ten months of its promulgation. However, the process has still not been completed even though a number of years have passed, and there have been clashes between private individuals who want land in the territory and the indigenous communities. CEJIS alleges that individuals have made death threats against community leaders and legal aid workers. Since 2001, Amnesty International has noted with concern a worrying pattern of attacks against CEJIS lawyers.

On 15 September 2001, the lawyer Leonardo Tamburini was reportedly attacked by a group of local cattle ranchers from San Javier and Concepción municipalities, Santa Cruz Department. The incident took place as he was leaving the Indigenous organization, Paikoneka, in San Javier, while accompanied by Dr. Carlos Romero, executive director of CEJIS.

Leonardo Tamburini

Lawyer from the Centre
of Legal Studies and
Social Research (CEJIS)

Cesar Blanco

Lawyer from the Centre
of Legal Studies and
Social Research (CEJIS)

Sacha Llorenti Soliz

Secretary of Legal
Affairs of the Permanent
Assembly of Human
Rights (APDH)

Godofredo Reinicke

Representative in the El
Chapare region of the
Ombudsperson Office

Waldo Albarracín and his wife

National President of the Permanent
Assembly of Human Rights
(APDH)

Carlos Romero managed to escape but Leonardo Tamburini was chased by a group of armed men who got out of different vehicles and noisily approached him with the intention of detaining him by force. He was reportedly hit brutally in the face, on the head and the rest of his body and then taken by force to the offices of the *Asociación de Ganaderos de San Javier*, San Javier Cattle Ranchers Association. After a discussion, in which a Santa Cruz police officer and the President of the Cattle Ranchers' Association also participated, the ranchers agreed to release him. Leonardo Tamburini remained in the office under police protection for several hours until he was led, in police custody, to Santa Cruz where he was medically examined. Reports say he had multiple bruising of the face, head and body.

A Judicial Police investigation has reportedly been started in response to a request presented to the Santa Cruz Public Prosecutor about this incident. Amnesty International has received no news about the progress of this investigation.

More recently, on 17 September 2002, in a telephone call to the office of the Organización Indígena Chiquitana (OICH), Chiquitana Indigenous Organization, in Concepción Municipality, a person who identified himself as the President of the local Civic Committee, indicated that Leonardo Tamburini should leave the area within three hours. This veiled threat against the legitimate work conducted by Leonardo Tamburini as a legal advisor to the Chiquitana community was made at the same time as leaders of the indigenous organizations the areas of Concepción, San Javier and Lomerío and the OICH were meeting the institutions that support them in their land claims. On the same day, 17 September, CEJIS denounced the situation and asked the authorities to guarantee the safety and integrity of Leonardo Tamburini and all the other participants in that meeting.

César Blanco

On 9 November 2001, a group of eight peasants were detained at the peasant settlement of Núcleo Pananti, Tarija department, Gran Chaco province¹⁵, after a violent clash between peasants from the area belonging to the *Movimiento Sin Tierra*, and a group of armed men. Military and police authorities present in the area took no steps to prevent the clash, in which seven people were killed and 20 injured. On 12 November, police authorities prevented a CEJIS lawyer, César Blanco, from having access to the detained, refused to provide him with information on the detainees and forcibly obliged him to withdraw. Some of the detainees were reportedly in poor health but were not given any medical care. They were also denied access to lawyers during their interrogations. Amnesty International asked the Bolivian authorities for information about the detainees. The organization also reminded them of their obligation to ensure the protection and promotion of the legitimate work of human rights

¹⁵ The Núcleo Pananti settlement is home to 140 peasant families (approximately 700 people). It is one of 18 settlements that have grown up in unproductive large estates. The settlements have reportedly been subjected to continuous harassment by armed groups.

defenders and asked to know what measures had been taken to end the violation of these rights.¹⁶

It has concerned Amnesty International that some of the threats to human rights defenders have occurred while they were investigating illegal detentions. The detention, with or without authorization, of members of human rights and social organizations is considered arbitrary when it aims to prevent human rights defenders carrying out their legitimate work or when it is used as a form of punishment. This type of harassment by the State is contrary to the guidelines established by the UN Working Group on Arbitrary Detention.

For example, on 4 March 2002, the lawyer César Blanco was again intimidated by members of the police while he was waiting in the INRA offices to deal with land issues. César Blanco was accompanied by Father Luis Portillo, Vice President of Tarija APDH, and the regional peasant leader of the *Movimiento sin Tierra*, Damián Anagua.

The police reportedly hit the peasants and detained Damián Anagua, who was dragged along the ground. César Blanco intervened to try and stop the ill-treatment but he was also detained. The two men were taken to the local police station where a member of the police threatened César Blanco with his regulation weapon and hit him with the butt of the revolver, threatening to make him “disappear”. They were reportedly not allowed to make telephone calls. César Blanco and Damián Anagua were released a few hours later when an APDH commission came to the police station.

Violent obstruction of the Ombudsperson’s work

Law No. 1818, promulgated in December 1997, created the Ombudsperson of the Republic of Bolivia. In March 1998, the first Ombudsperson was nominated. Article 127 of the Constitution states that the role of the Ombudsperson is “*to ensure that human rights are protected, promoted and publicized*”. However, there have been incidents that have obstructed the work of the Ombudsperson in Bolivia.

Godofredo Reinicke and his assistant Silvano Arancibia

On 25 January 2001, UMOPAR members shot at Godofredo Reinicke, representative of the Ombudsperson’s Office in El Chapare, and his assistant, Silvano Arancibia as they were approaching the community of Nuevo Tacaparí, in the department of Cochabamba, to investigate reports of human rights violations. That same day, two representatives of the Ombudsperson’s Office had been refused access to the Mobile Rural Patrol Unit (UMOPAR) anti-drugs centre in the town of Chimoré for over an hour. The Ombudsperson reported what

¹⁶ In January 2002, the Bolivian authorities (Ministry of Justice and Human Rights) replied to Amnesty International, confirming the start of an investigation to clarify the facts, assure medical and hospital attention to all those injured, and the distribution of humanitarian aid to the families of dead victims, and assure the protection of the leader of the *Movimiento Sin Tierra*. The information provided by the authorities did not include information on the measures taken to protect and guarantee the work of human rights defenders.

happened to the local Public Prosecutor's Office, which has reportedly opened an investigation into the incident.

Germán Rivero Talamás

In November 2002, the Ombudsperson, Ana María Romero de Campero, publicly called on the government to provide guarantees to Germán Rivero Talamás, representative of the Ombudsperson in Riberalta, Beni Department. The representative of the Ombudsperson had reportedly been assaulted by members of the Regional Civic Committee, who accused him of defending criminals. Germán Rivero Talamás had received and processed denunciations that national laws had been violated. He had written to the Police and the public prosecutor, requesting a report on two incidents: the first being a detention which did not follow proper procedures and second, the searching of a house by non-authorized personnel. Although Germán Rivero Talamás tried to explain the nature of the work carried out by the Ombudsperson, members of the Regional Civic Committee forced him to leave the Ombudsperson's office while shouting at him and threatening his physical integrity. Our information indicates that the Ministry of the Interior responded to the call made by the Ombudsperson and guaranteed the legitimate work of the Riberalta Ombudsperson.

Conclusions

The legitimate activities of human rights defenders in Bolivia have not been duly protected by the authorities, who have tolerated attacks, threats and intimidation by not adopting effective measures to prevent, condemn and investigate such practices or ensure the respective judicial sanctions against those responsible. The lack of governmental protection of defenders undermines their legitimate work and represents non-compliance with Bolivia's international commitments.

The lack of government measures to protect defenders is the equivalent of consenting to covering up human rights violations. It is clear that, in many cases, human rights defenders are attacked to obstruct their denunciations and, in this way the authors of human rights violations evade investigation and prosecution. It is especially worrying that the Bolivian authorities have repeatedly failed to protect human rights defenders who suffer physical attacks and intimidation when legal procedures are not complied with during investigations. Most violations of the rights of human rights defenders presented in this report have not been resolved and Amnesty International is not aware of either the start or progress of any investigations to resolve them.

According to international treaties, the Bolivian government is responsible for attacks, harassment and threats against human rights defenders committed by law enforcement and other government officials. These treaties establish that the government has the duty to guarantee respect for human rights through the adoption of effective measures destined to ensure that government officials act within the framework of the law, prevent abuse,

investigate and prosecute those implicated in human rights violations and provide redress to victims. This obligation includes the duty to be diligent in prosecuting offenders and eliminating obstacles to justice.

The State's responsibility with regard to human rights violations includes not only those committed by public officials, but also, in certain circumstances, abuses perpetrated by private citizens. The government has the obligation to take measures against persons who obstruct or threaten the work of human rights defenders, independently of whether these abuses have been committed by order of the State, or with its connivance or consent. International human rights standards state that the State is responsible for these abuses, including the harassment of human rights defenders, if it does not act with due diligence to prevent, investigate and punish those responsible. The International Pact on Civil and Political Rights requires the State Party to "guarantee" the rights included in the Pact, an obligation that, according to the UN Human Rights Committee, includes protection against acts committed by people who act in a private capacity.

Amnesty International hopes that the government of President Gonzalo Sánchez de Lozada stops attacks on human rights defenders and the impunity that has been associated with such attacks; creates, in this way, conditions for the Bolivian State to comply with its international obligations; and adopts immediate measures to fully guarantee the work carried out by defenders.

The way that the authorities treat the human rights movement is an indicator of the government's political will to respect the international treaties and conventions it has signed and agreed to comply with. A positive change in the protection of human rights defenders in Bolivia would be an unequivocal signal that the new government truly considers and accepts its international commitment to recognize and support the task carried out by human rights defenders, and the latter's valuable contribution to the promotion, respect and protection of fundamental rights and freedoms in Bolivia.

Amnesty International urges the Bolivian government to adopt and implement the following recommendations on the protection of human rights defenders and their work.

The government should:

1. Guarantee that the principles proclaimed in the *Declaration on the Right and Responsibility of Individuals, Groups and Organs to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, approved by the United Nations General Assembly on 9 December 1998, are fully incorporated into national laws and mechanisms for the protection of human rights, including human rights commissions. At all levels of government, the authorities should explicitly commit themselves to promoting respect for human rights and protecting human rights defenders. The President of the Republic and the Departmental Governors should meet with human rights

defenders to ensure that mechanisms to implement the principles contained in the Declaration are created and to evaluate the implementation of these mechanisms.

2. Guarantee compliance with the obligations contained in international human rights standards, by ensuring that officials at all levels of government, including the lower levels, co-operate fully with members of human rights non-governmental organizations and facilitate their work. Recognize the importance of civil society holding the activities of government officials to rigorous and independent scrutiny. Recognize the right to criticize the policy and actions of the government on human rights, in relation to presumed human rights violations committed against defenders and other people.
3. Guarantee that exhaustive and impartial investigations of human rights violations against defenders are carried out, that those responsible are prosecuted and that redress is afforded to the victims and their families. Guarantee that these investigations are independent, that they are not entrusted to individuals involved in acts of harassment of human rights defenders and that the results are made public. Guarantee that human rights defenders are not coerced into withdrawing their denunciations.
4. Suspend members of the security forces that are being formally investigated for human rights violations from active service immediately until the investigations have been completed. Establish information systems to ensure that no member of the security forces who has been dismissed because of possible participation in human rights violations against human rights defenders should be given a post in which they might commit this type of abuse again.
5. Guarantee that perpetrators of human rights violations, including those committed against defenders, do not benefit from any legal or other measure that exempts them from being prosecuted and convicted.
6. Adopt integrated programs for the protection of human rights defenders. These programmes should include preventive measures, such as exhaustive investigation into attacks and threats against defenders; publication of the principles of the UN Declaration on Human Rights Defenders; training for the security forces on the right of defenders to carry out their legitimate activities; and security measures when it is necessary to provide immediate protection to human rights defenders and their families. This kind of program should guarantee that all measures taken to protect human rights defenders are adopted in accordance with the wishes of the people to be given protection.
7. Guarantee the full implementation of broad witness protection programs to protect the security of individuals, including human rights defenders, who are involved in investigations or other legal procedures against those accused of human rights violations.
8. Guarantee the full implementation of international recommendations and resolutions, including preventive and provisional measures, relevant to human rights defenders,

established by the inter-American human rights system, including the OAS General Assembly and the United Nations. Should take appropriate measures to monitor compliance with these recommendations. Guarantee that government officials and members of the security forces implicated in the harassment of human rights defenders are not made responsible for implementing such preventive or provisional measures.

9. Guarantee full support for mechanisms and initiatives, including the special rapporteurs, established by the United Nations and inter-American human rights systems that support human rights defenders and their work. Support the creation of an Inter-American Human Rights Commission Special Rapporteur for human rights defenders.
10. Meet members of non-governmental human rights organizations to negotiate an appropriate legal framework that would permit, amongst other things:
 - Full recognition of non-governmental human rights organizations within the existing framework that recognizes not-for-profit social associations;
 - The creation of mechanisms to support the participation of human rights defenders in the preparation and implementation of official human rights policies and programs.

Appendix I

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 General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of

their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others

and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.