

BOLIVIA

AWAITING JUSTICE: Torture, Extrajudicial Executions and Legal Proceedings

INTRODUCTION

Amnesty International is concerned that the Bolivian authorities have not adopted the findings and recommendations of the investigation undertaken by the *Comisión de Derechos Humanos de la Cámara de Diputados*, the Bolivian Commission of Human Rights of the Chamber of Deputies, into the human rights violations committed between 1989 and 1993. The organization is also concerned that the state has failed to bring to justice the alleged perpetrators of these violations. The alleged human rights violations include extrajudicial executions, torture and ill-treatment of political prisoners. In addition, Amnesty International is concerned that the fair trial rights of many of these political prisoners have been violated. Among other things many of them were held in illegally prolonged incommunicado detention, were denied access to defence counsel during the initial period of their detention and interrogation, had “confessions” allegedly extracted under torture or ill-treatment accepted as evidence against them accused and have not been tried within a reasonable time.

Amnesty International has been monitoring a number of cases of political prisoners who were arrested between 1989 and 1993 as members or suspected members of armed opposition groups following a series of violent incidents for which armed opposition groups claimed responsibility. Six of these political prisoners have been released, one provisionally whilst awaiting trial, two have been acquitted and three are on parole (*libertad extra-muro*) after serving half their sentence. One is serving a 30-year sentence. Twenty six others remain in detention charged with up to fourteen criminal offences, including armed rebellion and terrorism. Though they were arrested between three and six years ago, their trials have still to be completed.

Amnesty International is also concerned that the proceedings against the 26 political detainees have not been conducted in accordance with international standards for fair trial. These include the absence of a defence lawyer during their interrogation and the acceptance by the courts of such statements as evidence.

The complaints were widely publicized at the time by the Bolivian press and reported by the non-governmental organization *Asamblea Permanente de Derechos Humanos de Bolivia*, Bolivian Permanent Human Rights Assembly. The *Comisión Andina de Juristas*, Andean Commission of Jurists, a regional international non-governmental organization, reported the complaints in 1993 and more recently, in July 1995, the *Comisión de Derechos Humanos de la Cámara de Diputados*, Bolivian Commission of Human Rights of the Chamber of Deputies, documented the allegations in its report “*Denuncia de Torturas a Ciudadanos Sindicados de Alzamiento Armado*” (Denunciation of Torture of Citizens Accused of Armed Uprising).

Those still in detention are members or alleged members of one of three armed groups that have appeared in Bolivia since 1989: the *Fuerzas Armadas de Liberación Zárata Willca* (FAL-ZW), Zárata Willca Armed Liberation Forces; the *Comisión Néstor Paz Zamora-Ejército de Liberación Nacional* (CNPZ-ELN), Néstor Paz Zamora Commission-National Liberation Army; the *Ejército Guerrillero Tupac Katari* (EGTK), Tupac Katari Guerrilla Army. All three organizations have been accused of carrying out violent activities since 1989 and all three have accepted responsibility for armed actions.

Amnesty International work includes opposing and condemning human rights abuses by opposition groups including hostage-taking, torture and killing of prisoners and other deliberate and arbitrary killings. However, international human rights law makes it clear that, no exceptional circumstances, not even violence or attacks by armed opposition groups, justify violations of certain fundamental human rights by the state such as the right to life and the right to be free from torture. Amnesty International believes that it is particularly important that governments should rigorously uphold international standards for fair trials in the trials of political detainees.

BACKGROUND

Amnesty International has continued to seek further information regarding the allegations themselves and to establish steps taken by the authorities to investigate them and the outcome of any inquiries opened as a result of the allegations. Testimonies with specific and detailed information were collected by Amnesty International delegations during visits to Bolivia in September 1991 and May 1993. The testimonies gathered, together with documentary evidence and interviews with relatives and lawyers of victims of extrajudicial executions and political detainees, revealed a pattern of allegations which Amnesty International considered sufficiently serious to warrant independent and effective investigation by the authorities.

On several occasions between 1989 and 1993 Amnesty International presented to the then President Jaime Paz Zamora and representatives of his administration its concerns about

allegations of human rights violations committed by members of the security forces against political prisoners, including extrajudicial executions which took place during the four years of his presidency. Since 1989 Amnesty International has urged the Bolivian authorities to initiate thorough, independent and impartial investigations into all cases of alleged torture and extrajudicial executions, for the findings to be made public and for those found responsible to be brought to justice.

The Bolivian authorities have repeatedly denied the allegations of torture and extrajudicial executions. The authorities have also stated that in the Bolivian legal system there is no provision for the typification of political crimes and therefore the detainees are considered common prisoners.¹

On 6 August 1993 Gonzalo Sánchez de Lozada of the *Movimiento Nacional Revolucionario* (MNR), National Revolutionary Movement, was inaugurated as President of Bolivia for a constitutional term of four years, succeeding former President Jaime Paz Zamora of the *Movimiento de la Izquierda Revolucionaria* (MIR), National Revolutionary Left Movement.

International standards dictate that states have the obligation to investigate allegations of human rights violations, and that those responsible for human rights violations be brought to justice even if they were committed during the term of a previous government. Amnesty International has presented its concerns to the present administration, renewing its appeals for independent inquiries.²

Bolivia has acceded to the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR) and is therefore bound to comply with its provisions which, inter alia, set out guarantees of the right to life, the right to be free from torture, cruel, inhuman and degrading treatment, and arbitrary detention. They provide for the right to a fair trial as well as establishing provisions aimed at safeguarding these rights and preventing their violation.

GOVERNMENT ACTION AGAINST ARMED OPPOSITION GROUPS

Amnesty International opposes torture, inhuman or degrading treatment of all detained persons. Amnesty International advocates for fair trials for political prisoners, who include those persons accused or convicted of an ordinary crime carried out for political motives.

Amnesty International presented to the government of President Gonzalo Sánchez de Lozada its publication "Bolivia: Cases of torture and extrajudicial executions allegedly committed by the Bolivian security forces" (AI: Index AMR 18/03/93), September 1993.

Fuerzas Armadas de Liberación Zárata Willca (FAL-ZW), Zárata Willca Armed Liberation Forces

During 1989 a number of violent activities that took place in La Paz, the capital, including the killing of two Mormon missionaries from the United States in May of the same year, were attributed to the FAL-ZW. The group claimed responsibility for the killing of the two missionaries.

a) Detentions and torture

Six people were arrested between 1989 and 1993 and accused of belonging to the FAL-ZW. Amnesty International received testimonies of three of the detainees in which they alleged that they had been tortured and ill-treated by members of the security forces during their incommunicado detention in police premises and in cells at the Ministry of Interior.³ All those arrested have been released, except Johnny Justino Peralta Espinoza who has been sentenced to 30 years' imprisonment. Although their allegations of torture have been brought to the attention of the authorities, the courts have failed to initiate investigations into these allegations.

b) Extrajudicial execution

! **Juan Domingo Peralta Espinoza** was shot on 20 July 1990 when he was intercepted by members of the security forces. He died the same day. He was the brother of Johnny Justino Peralta Espinoza who was wanted at that time by the police for his alleged FAL-ZW activities.⁴ Juan Domingo Peralta Espinoza was reportedly unarmed at the time he was shot and was not being sought by the authorities.

Amnesty International welcomed information, provided in a communication dated 28 November 1991 from the Ministry of Interior, Migration and Justice⁵ that an investigation had been initiated by the authorities into the death of Juan Domingo Peralta Espinoza, to establish whether the police officers involved had exhausted all other

See: "Bolivia: Allegations of human rights violations committed by the security forces" (AI Index: 18/04/90), December 1990.

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The Ministry of Interior, Migration and Justice was abolished in 1993, its functions being divided between a new separate Ministry of Justice and the Ministry of Government.

means to apprehend Juan Domingo Peralta Espinoza before using their firearms. Amnesty International requested information on the outcome of the investigation of the shooting and of any investigation which might have been initiated into the alleged instructions by members of the police which obstructed the provision of medical attention for Juan Domingo Peralta Espinoza at the Hospital John XXIII.

To date, Amnesty International has not received any information regarding the progress of any investigation into the possible extrajudicial execution of Juan Domingo Peralta Espinoza. His relatives claim that no judicial investigation has been initiated. According to the Bolivian Commission of Human Rights' report, the progress of this investigation is not known by the police authorities and there are no records of it being forwarded to the courts. "*El curso de la investigación sobre esta muerte no es conocido por las autoridades policiales y tampoco ha sido remitido el caso a la justicia ordinaria*".

Comisión Néstor Paz Zamora-Ejército de Liberación Nacional (CNPZ-ELN), Néstor Paz Zamora Commission-National Liberation Army

In the second half of 1990 armed opposition groups increased their activities. In October the new armed opposition group CNPZ-ELN claimed responsibility for a number of violent attacks. It also claimed responsibility for the kidnapping in June of the same year of a Bolivian industrialist, Jorge Lonsdale.

a) Detentions and torture

In the aftermath of the operations of the CNPZ-ELN, dozens of people, mainly students, were detained. Some were released without charge. Amnesty International received reports which indicated that most of those arrested had been subjected to various forms of torture including mock executions and ill-treatment, by members of the police and army during the first days of their detention at secret locations in La Paz, in premises they identified as the *Centro Especial de Investigaciones Policiales* (CEIP), Police Special Centre for Investigations, or the *Segunda Sección del Ejército* Army Second Section. Six people, charged with terrorism and other criminal offences remain detained awaiting the completion of their trial.

b) Extrajudicial executions

! A joint military-police operation was undertaken in La Paz on 5 December 1990 to rescue the Bolivian industrialist Jorge Lonsdale, kidnapped by the CNPZ-ELN. As a result of the combined military-police operation, three alleged members of the CNPZ-ELN were killed: **Miguel Northtufster, Luis Caballero and Osvaldo Espinoza.**

Jorge Lonsdale was also killed. Amnesty International expressed concern to the Bolivian authorities that information received appeared to indicate that at least two of the members of the CNPZ-ELN may have been extrajudicially executed after having surrendered. The Ministry of the Interior indicated that as the kidnappers refused to negotiate the freedom of their hostage, the Ministry of Interior was given a " 'green light' to carry out the operation..." ("*carta blanca para las operaciones correspondientes...*")

In December 1990 Amnesty International wrote to the then President Jaime Paz Zamora. The organization expressed its belief that, notwithstanding the fact that the abduction of Jorge Lonsdale was a serious crime, action of armed opposition groups can never be used by governments to justify violations of basic human rights, including torture and extrajudicial executions. Amnesty International also reminded the President that it is the responsibility of the government, in order to prevent human rights violations, to ensure that any action taken by law enforcement agents be carried out in accordance with the United Nations (UN) Code of Conduct for Law Enforcement Officials. Amnesty International has received no information from government sources indicating that an independent investigation has been initiated to clarify the circumstances, manner and cause of death surrounding the killing of the CNPZ-ELN members.

! On 10 December 1990 the Ministry of the Interior stated that a corpse which had been found in the city morgue had been identified as a Peruvian citizen and member of the CNPZ-ELN, known as Alejandro Escobar Gutiérrez. According to morgue officials, his corpse was delivered to the morgue between 6 and 7 December by police agents without any explanation. Autopsy reports indicated that the cause of death of Alejandro Escobar Gutiérrez, later identified as **Evaristo Salazar**, was gunshot wounds and noted that his body showed clear signs of torture.

Amnesty International has welcomed the information from the Ministry of the Interior regarding a police investigation and the trial of those accused of the killing of Evaristo Salazar. On 18 January 1991 legal proceedings were initiated against two policemen for the killing. The trial against the two policemen, who had been granted provisional freedom, was initiated on 19 August 1991 on charges of felonious homicide and coercion. Amnesty International, however, has not received any information on the outcome of the trial which by May 1993 was stalled, according to the presiding judge, owing to "procedural difficulties". The organization is concerned at the apparent failure of the authorities to investigate allegations that Evaristo Salazar's body showed clear signs of torture.

Ejército Guerrillero Tupac Katari (EGTK), Tupac Katari Guerrilla Army

At the beginning of 1992 dozens of people were arrested by police in the context of an offensive against the armed opposition group, EGTK. The group admitted responsibility for several bomb attacks on economic targets around the country. Information from the Ministry of the Interior indicated that three people had died during the attacks. The EGTK has refuted this information.

a) Detentions and torture

Complaints presented to the Bolivian Human Rights Permanent Assembly by detainees and their relatives alleged that the people arrested in connection with the activities of the EGTK, had been held in incommunicado detention for up to 17 days. Some were alleged to have been detained in secret locations; others were reportedly detained in the Ministry of the Interior and in the CEIP. It has been reported that during that time, the detainees were subjected to torture and ill treatment and threatened with the arrest of their relatives.

POLITICAL PRISONERS

At present 26 political prisoners, including four women, remain in prison awaiting completion of their trials. A fifth woman, has been granted provisional release pending her trial (*see Appendix D*). Three women are held at the women's prison, *Centro de Orientación Femenina de Obrajes*, in La Paz. A fourth woman is held at the Female Prison of San Sebastian in the city of Cochabamba. The male political prisoners are held in the high security prison of *Chonchocoro*, located 23km from La Paz, in the *San Pedro* Prison, in La Paz, and in the Male Prison of San Sebastian in Cochabamba. All were arrested between 1990 and 1993 and charged with several offences, including armed rebellion and terrorism.

*Main entrance to San Pedro
Prison, La Paz. (1993)*

Outside installations of the High Security Prison of Chonchocoro, (1993), located at 23km from La Paz

They have all claimed that they were forced, under torture and duress, to sign self-incriminating “confessions”. None of them were allowed access to legal counsel until after several days in incommunicado detention. These practices violate several articles of the Bolivian Constitution (Article 9.II limits the term of incommunicado detention to 24 hours; Article 12 forbids torture; Article 14 establishes that there must be no compulsion to testify against oneself and Article 16.III establishes the right of legal defence from the moment of arrest) and international standards including the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Torture testimonies

Article 9.II of the Bolivian Constitution states that:

“Incommunicado detention can only be applied in very grave cases and never for more than 24 hours.” (“*La incomunicación no podrá imponerse, sino en casos de notoria gravedad y de ningún modo por más de veinticuatro horas.*”)

Article 12 of the Bolivian Constitution states that:

“All kinds of torture, coercion, exaction or any type of physical or moral violence are forbidden. Those who apply, order, instigate or allow them will be penalised with immediate dismissal without precluding further sanctions.”

(Article 12 - Guarantees to the Person - Bolivian Constitution)

"Queda prohibida toda especie de torturas, coacciones, exacciones o cualquier forma de violencia física o moral, bajo pena de destitución inmediata y sin perjuicio de las sanciones a que se haran pasibles quienes las aplicaren, ordenaren, instigaren o consintieren".

(Artículo 12 - Garantías de la Persona - Constitución Política del Estado)

Article 7 of the ICCPR states that:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." (*"Nadie será sometido a torturas ni a penas o tratos crueles, inhumanos o degradantes."*)

Article 5.2 of the American Convention on Human Rights states that :

"No one shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person." (*"Nadie debe ser sometido a torturas ni a penas o tratos crueles, inhumanos o degradantes. Toda persona privada de libertad sera tratada con el respeto debido a la dignidad inherente al ser humano."*)

Despite the provisions of the Bolivian Constitution and international standards, reports and testimonies received by Amnesty International have indicated that political detainees accused of membership of armed opposition groups were kept in incommunicado detention for over two weeks, during which time they were kicked, punched and subjected to prolonged beatings and threats by members of the police and army. Some detainees have alleged that they were subjected to electric shocks, *submarino* (repeated immersion in water) and mock executions.

What follows are extracts from some of several testimonies of victims of torture received by Amnesty International.⁶

! **Sylvia María Renée de Alarcón**, and her husband **José Raúl García Linera**, were arrested by security agents in La Paz in March 1992 on suspicion of membership of the EGTK. They were held incommunicado for 17 days in police installations. According to their testimonies, they were kept in separate rooms and forced to stand for several hours in a contorted position known as the "pig" (*chancho*), (bent double facing a wall with the head touching the ground and the hands tied behind the back). While being forced to remain in this position they were beaten on the hips and buttocks. They were

For further details on testimonies, see: "Bolivia: Cases of torture and extrajudicial executions allegedly committed by the Bolivian security forces" (AI Index: AMR 18/03/93), September 1993.

both threatened with their partner's torture. José Raúl García Linera was threatened with rape of his wife and himself. They both stated that a state prosecutor (*fiscal*) was present during the interrogations and when they were tortured.

- ! Another couple, **María Raquel Gutiérrez Aguilar**, a 29-year old Mexican citizen, and her husband, **Alvaro García Linera**, were arrested in April 1992 in La Paz in connection with the EGTK activities. In her testimony María Raquel Gutiérrez Aguilar stated that after her arrest she was taken to the Ministry of the Interior where, for about four days, she was kept hooded and handcuffed. For several hours at a time, she was made to stand in the "pig" position while she was whipped and subjected to electric shocks in the genitals, neck and ears. The authorities also threatened to torture her husband. While still in incommunicado detention, the day before she was presented to a judge, María Raquel Gutiérrez Aguilar tried to commit suicide. Alvaro García Linera stated that he was kept hooded and handcuffed in the Ministry of the Interior. According to his testimony he was beaten, given electric shocks on the genitals and limbs for several hours at a time, and had nails driven into his toes and finger-nails.
- ! In another testimony received by Amnesty International, **Juan Carlos Octavio Pinto Quintanilla** gives details of the first eight days of his unacknowledged detention. He was arrested by armed members of the security forces in April 1992 in Cochabamba. He was taken to a 'secret detention centre' (*casa de seguridad*) where, while hooded, he was undressed, bound by the hands and feet and hung by his feet from the roof. He was beaten with a metal rod on the soles

*Juan Carlos Octavio Pinto Quintanilla**

*Sylvia Maria Renée de Alarcón**

*José Raúl García Linera**

*Alvaro García Linera**

*María Raquel Gutiérrez **

* *All photographs were taken around 1990.*

of the feet for periods of half-an-hour at a time, after which he was taken down and forced to run on the spot in order to reactivate the blood flow, apparently to avoid marks from the punishment. He was also subjected to a type of torture known as 'the bell' (*la campana*), during which his head was covered with a metal container, possibly a cauldron, which was beaten repeatedly causing a loud noise which left no visible marks but caused him great distress. Also, while tied to a chair, his head was covered with a plastic bag which produced a feeling of asphyxiation. He was punched by his aggressors, whose fists appeared to be wrapped in cloth. He was subjected to threats against his family. For a period of about three days he was deprived of sleep.

Nine days after his arrest and eventual transfer to La Paz, the police prosecutor (*fiscal*) presented Juan Carlos Octavio Pinto Quintanilla to members of the press. On that

occasion, Juan Carlos Octavio Pinto Quintanilla publicly stated that he had been tortured during the initial period of his detention.

- ! **María Mercedes Nava Morales**, a university student, was arrested at her family home in November 1990 by agents from the Ministry of the Interior in connection with activities of the armed group CNPZ-ELN. Allegedly, during the first 15 days of her detention in CEIP, María Mercedes Nava Morales was held incommunicado and was not provided with medical attention requested by her family, which was required because of a road accident she suffered a few days before her arrest. According to information received by Amnesty International from her relatives, they were denied access to María Mercedes until she was prepared to say that she had been associated with the CNPZ-ELN. Her relatives also claim that a member of the police threatened to arrest the whole family and to torture María Mercedes' father in her presence. The incommunicado detention of María Mercedes Nava Morales lasted nearly one month.

Legal Proceedings

Amnesty International is concerned that the criminal proceedings brought against the political prisoners, who have been charged in connection with the activities of armed opposition groups, have not been conducted in accordance with Bolivian law and international standards for fair trial. Among other things, Amnesty International is concerned that the detainees were held in unlawfully prolonged incommunicado detention; that during the initial period of their detention they did not have access to defence counsel and were subjected to torture and ill-treatment, coercing them under torture and duress to make "confessions" in the absence of legal counsel and that the proceedings against them have not been completed within a reasonable time.

Furthermore, Amnesty International is concerned that the "confessions" extracted under torture and duress may be considered as evidence against the accused, in violation of international standards including Article 12 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which require their exclusion.

During a mission to Bolivia in April 1996, Amnesty International delegates had a meeting with the president and members of the Bolivian Human Rights Commission of the Chamber of Deputies, responsible for the report published by the Commission, which extensively documents the complaints of torture and violation of fair trial rights and guarantees.

The delegates interviewed relatives and lawyers of a number of the political detainees. Private interviews, officially authorized, with a number of political detainees in *San Pedro* and *Obrajes* prisons were also held. All complained about the failure of the authorities to investigate the allegations of torture and ill-treatment during the initial period of detention. Lawyers and relatives of the detainees voiced concern and anxiety that the detainees' rights to the completion of the trials without undue delay, and to be tried by an independent and impartial tribunal, were not being upheld. Concern was also raised that the detainees' complaints about torture while under police custody have been frequently ignored by members of the judiciary, who have allegedly refused to consider such complaints.

The legal proceedings initiated against the political detainees seem to be largely based on evidence obtained during the initial inquiries by the police, allegedly under torture and duress. These allegations have not been investigated by the appointed judge. In accordance with Article 14.2 of the ICCPR and Article 8.2 of the ACHR, all people charged with criminal offences shall have the right to be presumed innocent until proved guilty according to law. International standards also dictate that there must be no compulsion for the accused to declare guilt or to testify against oneself (Article 14.3(g) of the ICCPR and Article 8.2(g) of the ACHR). Articles 14 and 16.I of the Bolivian Constitution mandate these principles.

In addition to prohibiting torture and ill-treatment, international standards also require that no statement so compelled be admissible in court except against the alleged perpetrator of the torture (Article 15 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

Article 16.III of the Bolivian Constitution clearly establishes that "all detainees have the right to legal defence from the moment of their arrest." (*"Desde el momento de su detención o apresamiento, los detenidos tienen derecho a ser asistidos por un defensor"*). However according to information provided in the Bolivian Human Rights Commission report, the judge in charge of the initial proceedings dismissed the need for legal assistance during judicial police formalities. Article 297.1 of the *Código de Procedimiento Penal* Code of Penal Procedure establishes that failure to uphold this principle should invalidate any proceedings carried out by police and prosecutors (*"constituyen causales de nulidad ... la falta de designación de defensor oficial para el imputado, y la incomparecencia de aquel al acto de la confesión."*)

After between three and six years of detention, only the initial investigatory stage, of the political detainees' trials has been completed. The prolonged delays in completing this stage exceed the permissible time of 20 days established by Article 171 of the Code of Penal Procedure, and in Amnesty International's view, violate the right to be tried within a reasonable time, as guaranteed by the ICCPR and the ACHR.

REPORT BY THE BOLIVIAN HUMAN RIGHTS COMMISSION OF THE CHAMBER OF DEPUTIES

In July 1995 the *Comision de Derechos Humanos de la Cámara de Diputados*, Bolivian Human Rights Commission of the Chamber of Deputies, presented for the consideration of the Chamber of Deputies its report on human rights violations allegedly committed by the Bolivian security forces between June 1989 and April 1993. These human rights violations took place in the course of security forces operations aimed at stopping the violent activities of newly formed armed opposition groups.

The Commission's report, "*Denuncia de Torturas a Ciudadanos Sindicados de Alzamiento Armado*", "Denunciation of Torture of Citizens Accused of Armed Uprising", documents the allegations of torture and ill-treatment of 35 political detainees, most of them still in detention. It also provides information about the apparent extrajudicial execution of five people and citing Bolivian law and international standards, calls into question the fairness of the trials initiated against the prisoners. The information gathered and analysed in the Commission's report includes testimonies by victims and their relatives, members of the judiciary and other relevant authorities, as well as legal and forensic documentation. Reports by local human rights organizations and Amnesty International documenting the violations are also cited by the Commission.

The Commission was mandated by the Chamber of Deputies to undertake this investigation, and its report now awaits full endorsement by the Chamber. Amnesty International welcomes the Commission's strong stand against torture and impunity. Amnesty International believes that full congressional backing for the recommendations contained in the report would serve to strengthen those official institutions charged with investigating human rights violations, including the call for those who violate human rights to be brought to justice.

President of the Bolivian Human Rights Commission, Dr Juan del Granado (left), presenting the report to the Vice-President of the Chamber of Deputies, Dr Jaime Ponce Caballero. © Presencia

CONCLUSIONS

Amnesty International remains concerned at the lack of judicial investigations into the report of unlawfully prolonged incommunicado detention, torture, and extrajudicial executions outlined above. The organization also remains concerned that the political prisoners did not have access to counsel during the initial period of detention, were tortured and that their trials have not been completed within a reasonable time. These concerns were raised with the authorities on several occasions including in January 1996 with the Vice President of the Republic, Victor Hugo Cárdenas, during an interview in London, and in April 1996 with Ministers of the Bolivian Government in La Paz. No official reply has been received on these concerns.

The human rights violations mentioned above indicate a pattern of human rights violations by members of the Bolivian security forces against detainees suspected of membership of armed groups. Amnesty International notes with concern that, although the Bolivian Constitution establishes under *Article 9.II* that no one may be held in incommunicado detention for more than 24 hours, all the detentions referred to in this report failed to observe this constitutional provision. Amnesty International is concerned that allegations of torture of detainees while in police custody have not been effectively investigated.

The torture of detainees in police custody is an unacceptable practice that must not be tolerated. Furthermore, these practices contravene commitments of the Bolivian government as a State Party to the International Covenant on Civil and Political Rights (ICCPR). Other international standards including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the Bolivian Government has signed but not ratified, require governments to take effective measures to prevent acts of torture in any territory under their jurisdiction. As a signatory to this Convention, the authorities are obligated under international law to not take steps which would defeat the object or purpose of this treaty.

Amnesty International is increasingly concerned that government agents responsible for upholding the law have apparently failed to respect the Bolivian Constitution and international

standards which forbid torture and set out guarantees which, if properly enforced, would help to prevent such human rights violations.

Amnesty International is further concerned that the case against the political detainees is based primarily on evidence extracted under torture in violation of Bolivian law and international human rights standards.

Amnesty International is concerned that district and police prosecutors failed to uphold the Bolivian Constitution and international standards by their denial of legal assistance to the detainees during the interrogation period.

Amnesty International considers that human rights violations should be promptly, thoroughly, independently and impartially investigated. Such investigations must take place even after a government, under whose rule the alleged violations were perpetrated, is replaced by successive governments. Failure to identify and bring to justice those responsible for human rights violations might encourage some to view extrajudicial execution, torture and ill-treatment as acceptable methods of operation in the administration of national security in the future.

In accordance with international human rights standards, the state has an obligation to ensure that investigations into cases of alleged torture and extrajudicial execution are carried through to their completion, that the findings are made public and that those found responsible are brought to justice. Ending impunity for human rights abuses is one of the most important preventive measures against such abuses.

AMNESTY INTERNATIONAL'S RECOMMENDATIONS

In order to prevent new human rights violations and to fulfil its obligation to protect human rights, Amnesty International believes that the Bolivian Government should take certain practical and concrete steps including:

- 1) sending a clear message, through the chain of command of the police and armed forces, that unlawful killings and all forms of physical or psychological torture and ill-treatment are forbidden and will be punished with the full force of the law;
- 2) ensuring that all allegations of torture and unlawful killings allegedly carried out by agents of the State or with their acquiescence are promptly, impartially and thoroughly investigated and that those responsible for such crimes are brought to justice;

- 3) ensuring that the methods and findings of such investigations be made public in full at the earliest opportunity;
- 4) ratifying the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture;
- 5) setting clear time limits between arrest and trial and ensuring that all individuals arrested are promptly charged and brought to trial within a reasonable time.

Amnesty International also urges the Bolivian authorities to take all necessary steps to guarantee the physical integrity of the detainees, their families and others who have provided the testimonies and complaints mentioned in this report, ensuring that they are not subjected to threats or reprisals.

Amnesty International urges the Honourable Chamber of Deputies to give full support to the report and recommendations as presented by its Commission of Human Rights.

Appendix I

<i>Case: Ejército Guerrillero Tupac Katari (EGTK), (Tupac Katari Guerrilla Army)</i>						
	Name	Date and place of detention	Political group	Charges	Prison	Other
1	Alarcón de, Silvia María Renée	detained 9/3/92	EGTK	terrorism and other charges	Women's Orientation Centre of Obrajes	
2	Apaza Bautista, Mario	detained 19/8/92	EGTK	terrorism and other charges	San Pedro Prison	
3	Arizmendi Caiza, Felix	detained 22/2/92 in La Paz	EGTK	terrorism and other charges	San Pedro Prison	
4	Condori Quispe, Pablo Segundino	detained 3/7/92 in Cochabamba	EGTK	terrorism and other charges	San Pedro Prison	

<i>Case: Ejército Guerrillero Tupac Katari (EGTK), (Tupac Katari Guerrilla Army)</i>						
	Name	Date and place of detention	Political group	Charges	Prison	Other
5	Choque, Alejandro	detained 19/8/92	EGTK	terrorism and other charges	San Pedro Prison	
6	Durán Zeballos, Ana Laura	detained 28/12/92 in Cochabamba	EGTK	terrorism and other charges	Women's Prison of San Sebastián Cochabamba	
7	García Linera, Alvaro	10/4/92	EGTK	terrorism and other charges	High Security Prison of Chonchocoro	
8	García Linera, José Raúl	detained 9/3/92	EGTK	terrorism and other charges	High security Prison of Chonchocoro	
9	Gutiérrez Aguilar, María Raquel	detained 9/3/92	EGTK	terrorism and other charges	Women's Orientation Centre of Obrajes	

<i>Case: Ejército Guerrillero Tupac Katari (EGTK), (Tupac Katari Guerrilla Army)</i>						
	Name	Date and place of detention	Political group	Charges	Prison	Other
10	Herrada Lamas, Tiburcio	detained 4/3/92 in Cochabamba	EGTK	terrorism and other charges	Men's Prison of San Sebastian Cochabamba	
11	Maidana Macías, Silverio	detained 10/4/92	EGTK	terrorism and other charges	High Security Prison of Chonchocoro	
12	Ortiz Quisbert, Victor	detained 10/4/92	EGTK	terrorism and other charges	High Security Prison of Chonchocoro	
13	Pinto Quintanilla, Juan Carlos	detained 13/4/92	EGTK	terrorism and other charges	San Pedro Prison	

<i>Case: Ejército Guerrillero Tupac Katari (EGTK), (Tupac Katari Guerrilla Army)</i>						
	Name	Date and place of detention	Political group	Charges	Prison	Other
14	Quispe Huanca, Felipe	detained 19/8/92	EGTK	terrorism and other charges	San Pedro Prison	
15	Rojas Lucana, Jesús	detained 26/2/92 in La Paz	EGTK	terrorism and other charges	San Pedro Prison	
16	Tola Cárdenas, Macario	detained 10/4/92	EGTK	terrorism and other charges	High Security Prison of Chonchocoro	
17	Yanique Apaza, Santiago	detained 19/4/92	EGTK	terrorism and other charges	San Pedro Prison	

Case: “Comisión Nestor Paz Zamora - Ejército de Liberación Nacional” (CNPZ-ENL), (Nestor Paz Zamora Commission-National Liberation Army)						
	Name	Date and place of detention	Political group	Charges	Prison	Other
18	Acasigue Parada, Inés Paola	detained 22/11/90 in La Paz	CNPZ/ELN	terrorism and other charges	Women’s Orientation Centre of Obrajes	
19	Acasigue Parada, Julio Sebastián	detained 5/12/90 in La Paz	CNPZ/ELN	terrorism and other charges	High Security Prison of Chonchocoro	
20	Limaylla Huaman, Dante	detained 5/12/90 in La Paz	CNPZ/ELN	terrorism and other charges	High Security Prison of Chonchocoro	
21	Nava Morales, María Mercedes	detained 22/11/90	CNPZ/ELN	terrorism and other charges	Women’s Orientation Centre of Obrajes	

Case: “Comisión Nestor Paz Zamora - Ejército de Liberación Nacional” (CNPZ-ENL), (Nestor Paz Zamora Commission-National Liberation Army)						
	Name	Date and place of detention	Political group	Charges	Prison	Other
22	Pacajes Solis, Carlos	detained 6/11/90 in La Paz	CNPZ/ELN	terrorism and other charges	High Security Prison of Chonchocoro	
23	Vargas Guerrero, Serafín Elvis	detained 17/11/90 in Santa Cruz	CNPZ/ELN	terrorism and other charges	High Security Prison of Chonchocoro	
24	Aguilar Villca, Adelio	detained 21/4/93	ELN	armed uprising	San Pedro Prison	
25	Villegas Mamani, Claudio	detained 21/4/93	ELN	armed uprising	San Pedro Prison	
26	Morales, Manuel Alfredo	detained 23/4/93	ELN	armed uprising	San Pedro Prison	

Case: "Fuerzas Armadas de Liberación Zarate Willca (FAL-ZW), (Zarate Willca Armed Liberation Forces)						
	Name	date and place of detention	Political group	Charges	Prison	Other
1	Peralta Espinoza, Johnny Justino	detained 16/7/93	FAL-ZW	terrorism	High Security Prison of Chonchocoro	Tried and sentenced to 30 years imprisonment

Prisoners Released						
	Name	Date and place of detention	Political group	Charges	Prison	Other
1	Encinas Laguna, Felix Fernando	detained 24/6/89	FAL-ZW	terrorism	Parole (Extra-Muro)	Paroled after serving half his sentence

<i>Prisoners Released</i>						
2	Encinas Laguna, Juan Nelson	detained 25/6/89	FAL-ZW	terrorism	Parole (Extra-Muro)	Paroled after serving half his sentence
3	Yurja Loza, Constantino	detained 24/6/89	FAL-ZW	terrorism	Parole (Extra-Muro)	Paroled after serving half his sentence
4	Saavedra García, Rita	detained 23/4/93	ELN	terrorism	Provisional release	Pending trial
5	Zalles Cueto Alberto Augusto	detained 6/3/93 in Quito, Ecuador	CNPZ/ELN	terrorism	Released June 1995	Living outside Bolivia
6	Vela Maldonado, Wilfredo	detained 10/9/91	EGTK	terrorism	Released in 1995	

Appendix II

ENGLISH TEXT OF ARTICLES CITED IN DOCUMENT

“Bolivia - Awaiting Justice: Torture, Extrajudicial Executions and Legal Proceedings”

AI Index: AMR 18/09/96, September 1996

Bolivian Constitution

- Article 9** I. Nobody shall be detained or arrested or put in prison, except in those cases and in accordance with the process established by law, requiring the issuing of a written arrest warrant from a competent authority.
- II. Incommunicado detention can only be applied in very grave cases, and never for more than 24 hours.
- Article 12** All kind of torture, coercion, exaction or any other form of physical or moral violence are forbidden. Those who apply, order, instigate or allow them shall be penalised with immediate dismissal without precluding further sanctions.
- Article 14** Nobody shall be judged by a special commission or appear before judges other than those who were presiding before the crime took place, nor shall they be obliged to testify against themselves on criminal matters, or against their blood relatives up to and including the fourth generation, or their relatives by marriage up to the second, in accordance with civil law.

Bolivia: Awaiting Justice (Appendix II)

- Article 16**
- I. The accused is presumed innocent as long as his guilt has not been proven.
 - II. The defendant's right to proper defence is inalienable.
 - III. From the moment of detention or capture all detainees have the right to be assisted by a lawyer.

Bolivian Penal Proceedings Code

Article 171 (Duration of initial proceedings). The period within which initial legal proceedings should be concluded shall be 20 days, which shall run from the time that the accused is informed of the initiation of proceedings and given a copy of the charges or accusation. This notification shall be carried out as soon as the accused has been questioned.

Article 297 (Grounds for annulment)

1. The failure to provide an official lawyer for the accused, and his absence at the act of confession.

International Covenant on Civil and Political Rights (ICCPR)

Article 7 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

c) to be tried without undue delay;

d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

Bolivia: Awaiting Justice (Appendix II)

e) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

f) to have the free assistance of an interpreter if he cannot understand or speak the language used in court;

g) not to be compelled to testify against himself or to confess guilt.

American Convention on Human Rights - Freedom from Torture

Article 5

1. Every person has the right to have his physical, mental and moral integrity respected.

2. No one shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

Article 8

1. Every person shall have the right to a hearing with due guarantees and within a reasonable time, by a competent, independent and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights or obligations of a civil, labour, fiscal or any other nature.

2. Every person accused of a serious crime has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled to, with full equality, to the following minimum guarantees.

- a) the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court.
- b) prior notification in detail to the accused of the charges against him;
- c) adequate time and means for the preparation of his defence;
- d) the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing , and to communicate freely and privately with his counsel;
- e) the inalienable right to be assisted with counsel provided by the State, paid or not as the domestic law provides, if the accused does not, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
- f) the right of the defence to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
- g) the right not to be compelled to be a witness against himself or to plead guilty; and
- h) the right to appeal the judgement to a higher court.

Bolivia: Awaiting Justice (Appendix II)

3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.
4. An accused person, acquitted by a non-appealable judgement, shall not be subjected to a new trial for the same cause.
5. Criminal procedure shall be public, except in so far as may be necessary to protect the interests of justice.

Declaration for the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 12 Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

UN Convention against Torture and other Cruel and Inhuman or Degrading Treatment or Punishment

Article 15 Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

TEXTO EN ESPAÑOL DE LOS ARTÍCULOS CITADOS EN EL DOCUMENTO

Bolivia - Awaiting Justice: Torture, Extrajudicial Executions and Legal Proceedings AI Index: AMR 18/09/96, September 1996

Bolivia : Constitución Política del Estado

Artículo 9 I. Nadie puede ser detenido, arrestado ni puesto en prisión, sino en los casos y según las formas establecidas por la ley, requiriéndose para la ejecución del respectivo mandamiento, que éste emane de autoridad competente y sea intimado por escrito.

II. La incomunicación no podrá imponerse, sino en casos de notoria gravedad y de ningún modo por mas de veinticuatro horas.

Artículo 12 Queda prohibida todo especie de torturas, coacciones, exacciones o cualquier forma de violencia física o moral, bajo pena de destitución inmediata y sin perjuicio de sanciones a que se harán pasibles quienes las aplicaren, ordenaren, instigaren o consintieren.

Artículo 14 Nadie puede ser juzgado por comisiones especiales o sometido a otros jueces que los designados con anterioridad al hecho de la causa, ni se lo podrá obligar a declarar contra si mismo en materia penal, o contra sus parientes consanguíneos hasta el cuarto grado inclusive, o sus afines hasta el segundo, de acuerdo al cómputo civil.

Artículo 16 I. Se presume la inocencia del encausado mientras no se pruebe su culpabilidad.

II. El derecho de defensa de la persona en juicio es inviolable.

Bolivia: Awaiting Justice (Appendix II)

III. Desde el momento de su detención o apresamiento, los detenidos tienen derecho a ser asistidos por un defensor.

Código de Procedimiento Penal Boliviano

Artículo 171 - (Término de la Instrucción) El término dentro del cual deberá quedar concluida la instrucción será de veinte días, que correrán desde que se le hiciere saber al imputado el auto inicial de la instrucción, juntamente con una copia de la denuncia o la querrela. Esta notificación se practicará tan pronto como el imputado hubiere prestado indagatoria.

Artículo 297 (Causales de nulidad) Constituyen causales de nulidad y consiguiente reposición:

1. La falta de designación de defensor oficial para el imputado, y la incomparecencia de aquél al acto de la confesión.

Pacto Internacional de Derechos Civiles y Politicos

Artículo 7 Nadie será sometido a torturas ni a penas o tratos crueles, inhumanos o degradantes.

Artículo 14 1. Todas las personas son iguales ante los tribunales y cortes de justicia. Toda persona tendrá derecho a ser oído públicamente y con las debidas garantías por un tribunal competente, independiente e imparcial, establecido por la ley, en la substanciación de cualquier acusación de carácter penal formulada contra ella o para la determinación de sus derechos u obligaciones de carácter civil.

2. Toda persona acusada de un delito tiene derecho a que se presuma su inocencia mientras no se pruebe su culpabilidad conforme a la ley.
3. Durante el proceso, toda persona acusada de un delito tendrá derecho, en plena igualdad, a las siguientes garantías mínimas
 - a) A ser informada sin demora en un idioma que comprenda y en forma detallada, de la naturaleza y causas de la acusación formulada contra ella;
 - b) A disponer del tiempo y de los medios adecuados para la preparación de su defensa y a comunicarse con un defensor de su elección;
 - c) A ser juzgada sin dilaciones indebidas;
 - d) A hallarse presente en el proceso y a defenderse personalmente o ser asistida por un defensor de su elección; a ser informada, si no tuviere defensor, del derecho que le asiste a tenerlo, y, siempre que el interés de la justicia lo exija, a que se le nombre defensor de oficio, gratuitamente, si careciere de medios suficientes para pagarlo;
 - e) A interrogar o hacer interrogar a los testigos de cargo y a obtener la comparecencia de los testigos de descargo y que estos sean interrogados en las mismas condiciones que los testigos de cargo;

Bolivia: Awaiting Justice (Appendix II)

- f) A ser asistida gratuitamente por su interprete, si no comprende o no habla el idioma empleado en el tribunal;
- g) a no ser obligada a declarar contra si misma ni a confesarse culpable.

Convención Americana Sobre los Derechos Humanos

Artículo 5

1. Toda persona tiene derecho a que se respete su integridad física, psíquica y moral.
2. Nadie debe ser sometido a torturas ni a penas o tratos crueles, inhumanos o degradantes. Toda persona privada de libertad será tratada con el respeto debido a la dignidad inherente al ser humano.

Artículo 8

1. Toda persona tiene derecho a ser oída, con las debidas garantías y dentro de un plazo razonable, por un juez o tribunal competente, independiente e imparcial, establecido con anterioridad por la ley, en la sustanciación de cualquier acusación penal formulada contra ella, o para la determinación de sus derechos y obligaciones de orden civil, laboral, fiscal; o de cualquier otro carácter.
2. Toda persona inculpada de delito tiene derecho a que se presuma su inocencia mientras no se establezca legalmente su culpabilidad. Durante el proceso, toda persona tiene derecho, en plena igualdad, a las siguientes garantías mínimas
 - a) derecho del inculpado de ser asistido gratuitamente por el traductor o interprete, si no comprende o no habla el idioma del juzgado o tribunal;

- b) comunicación previa y detallada al inculpado de la acusación formulada;
 - c) concesión al inculpado del tiempo y de los medios adecuados para la preparación de su defensa;
 - d) derecho del inculpado de defenderse personalmente o de ser asistido por un defensor de su elección y de comunicarse libre y privadamente con su defensor;
 - e) derecho irrenunciable de ser asistido por un defensor proporcionado por el Estado, enumerado o no según la legislación interna, si el inculpado no se defendiere por sí mismo ni nombrare defensor dentro del plazo establecido por la ley;
 - f) derecho de la defensa de interrogar a los testigos presentes en el tribunal y de obtener la comparecencia, como testigos o peritos, de otras personas que puedan arrojar luz sobre los hechos;
 - g) derecho a no ser obligado a declarar contra si mismo ni a declararse culpable, y
 - h) derecho de recurrir del fallo ante juez o tribunal superior.
3. La confesión del inculpado solamente es válida si es hecha sin coacción de ninguna naturaleza.
 4. El inculpado absuelto por una sentencia firme no podrá ser sometido a nuevo juicio por los mismos hechos.

Bolivia: Awaiting Justice (Appendix II)

5. El proceso penal debe ser público, salvo en lo que sea necesario para preservar los intereses de la justicia.

Declaración sobre la Protección de Todas las Personas Contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes

Artículo 12 Ninguna declaración que se demuestre que ha sido hecha como resultado de tortura u otros tratos o penas crueles, inhumanos o degradantes podrá ser invocada como prueba contra la persona involucrada ni contra ninguna otra persona en ningún procedimiento.

Convención Contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes

Artículo 15 Todo Estado se asegurará de que ninguna declaración que se demuestre que ha sido hecha como resultado de tortura pueda ser invocada como prueba en ningún procedimiento, salvo en contra de una persona acusada de tortura como prueba de que se ha formulado la declaración.

Appendix III

12-POINT PROGRAM FOR THE PREVENTION OF TORTURE

Torture is a fundamental violation of human rights condemned by the General Assembly of the United Nations as an offence to human dignity and prohibited under national and international law.

Yet torture persists, daily and across the globe. In Amnesty International's experience, legislative prohibition is not enough. Immediate steps are needed to confront torture and other cruel, inhuman or degrading treatment or punishment wherever they occur and to eradicate them totally.

Amnesty International calls on all governments to implement the following 12-Point Program for the Prevention of Torture. It invites concerned individuals and organisations to join in promoting the program. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to abolish torture and to work for its abolition worldwide.

1. Official condemnation of torture.

Bolivia: Awaiting Justice (Appendix II)

The highest authorities of every country should demonstrate their total opposition to torture. They should make clear to all law-enforcement personnel that torture will not be tolerated under any circumstances.

2. Limits on incommunicado detention.

Torture often takes place while the victims are held incommunicado - unable to contact people outside who could help them or find out what is happening to them. Governments should adopt safeguards to ensure that incommunicado detention does not become an opportunity for torture. It is vital that all prisoners be brought before a judicial authority promptly after being taken into custody and that relatives, lawyers and doctors have prompt and regular access to them.

3. No secret detention.

In some countries torture takes place in secret centres, often after the victims are made to "disappear". Governments should ensure that prisoners are held in publicly recognized places, and that accurate information about their whereabouts is made available to relatives and lawyers.

4. Safeguards during interrogation and custody.

Governments should keep procedures for detention and interrogation under regular review. All prisoners should be promptly told of their rights, including the right to lodge complaints about their treatment. There should be regular independent visits of inspection to places of detention. An important safeguard against torture would be the separation of authorities responsible for detention from those in charge of interrogation.

5. Independent investigation of reports of torture.

Governments should ensure that all complaints and reports of torture are impartially and effectively investigated. The methods and findings of such investigations should be made public. Complainants and witnesses should be protected from intimidation.

6. No use of statements extracted under torture.

Governments should ensure that confessions or other evidence obtained through torture may never be invoked in legal proceedings.

7. Prohibition of torture in law.

Governments should ensure that acts of torture are punishable offences under the criminal law. In accordance with international law, the prohibition of torture must not be suspended under any circumstance, including states of war or other public emergency.

8. Prosecution of alleged torturers.

Those responsible for torture should be brought to justice. This principle should apply wherever they happen to be, wherever the crime was committed and whatever the nationality of the perpetrators or victims. There should be no "safe haven" for torturers.

9. Training procedures.

It should be made clear during the training of all officials involved in the custody, interrogation or treatment of prisoners that torture is a criminal act. They should be instructed that they are obliged to refuse to obey any order to torture.

10. Compensation and rehabilitation.

Victims of torture and their dependants should be entitled to obtain financial compensation. Victims should be provided with appropriate medical care and rehabilitation.

11. International response.

Governments should use all available channels to intercede with governments accused of torture. Intergovernmental mechanisms should be established and use to investigate reports of torture urgently and to take effective action against it. Governments should ensure that military, security or police transfers or training do not facilitate the practice of torture.

12. Ratification of international instruments.

All governments should ratify international instruments containing safeguards and remedies against torture, including the International Covenant on Civil and Political Rights and its Optional Protocol which provides for individual complaints.

Appendix IV

14-POINT PROGRAM FOR THE PREVENTION OF EXTRAJUDICIAL EXECUTIONS

Extrajudicial executions are fundamental violations of human rights and an affront to the conscience of humanity. These unlawful and deliberate killings, carried out by order of a government or with its complicity or acquiescence, have been condemned by the United Nations. Yet extrajudicial executions continue, daily and across the globe.

Many of the victims have been taken into custody or made to "disappear" before being killed. Some are killed in their homes, or in the course of military operations. Some are assassinated by uniformed members of the security forces, or by "death squads" operating with official connivance. Others are killed in peaceful demonstrations.

The accountability of governments for extrajudicial executions is not diminished by the commission of similar abhorrent acts by armed opposition groups. Urgent action is needed to stop extrajudicial executions and bring those responsible to justice.

Amnesty International calls on all governments to implement the following 14-Point Program for the Prevention of Extrajudicial Executions. It invites concerned individuals and organizations to join in promoting the program. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to stop extrajudicial executions and to work for their eradication worldwide.

1. Official condemnation

The highest authorities of every country should demonstrate their total opposition to extrajudicial executions. They should make clear to all members of the police, military and other security forces that extrajudicial executions will not be tolerated under any circumstances.

2. Chain-of-command control

Those in charge of the security forces should maintain strict chain-of-command control to ensure that officers under their command do not commit extrajudicial executions. Officials with chain-of-command responsibility who order or tolerate extrajudicial executions by those under their command should be held criminally responsible for these acts.

3. Restraints on use of force

Governments should ensure that law enforcement officials use force only when strictly necessary and only to the minimum extent required under the circumstances. Lethal force should not be used except when strictly unavoidable in order to protect life.

Amnesty International September 1996

AI Index: AMR 18/09/96

Bolivia: Awaiting Justice (Appendix IV)

4. Action against "death squads"

"Death squads", private armies, criminal gangs and paramilitary forces operating outside the chain of command but with official support or acquiescence should be prohibited and disbanded. Members of such groups who have perpetrated extrajudicial executions should be brought to justice.

5. Protection against death threats

Governments should ensure that anyone in danger of extrajudicial execution, including those who receive death threats, is effectively protected.

6. No secret detention

Governments should ensure that prisoners are held only in publicly recognized places of detention and that accurate information about the arrest and detention of any prisoner is made available promptly to relatives, lawyers and the courts. No one should be secretly detained.

7. Access to prisoners

All prisoners should be brought before a judicial authority without delay after being taken into custody. Relatives, lawyers and doctors should have prompt and regular access to them. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

8. Prohibition in law

Governments should ensure that the commission of an extrajudicial execution is a criminal offence, punishable by sanctions commensurate with the gravity of the practice. The prohibition of extrajudicial executions and the essential safeguards for their prevention must not be suspended under any circumstances, including states of war or other public emergency.

9. Individual responsibility

The prohibition of extrajudicial executions should be reflected in the training of all officials involved in the arrest and custody of prisoners and all officials authorized to use lethal force, and in the instructions issued to them. These officials should be instructed that they have the right and duty to refuse to obey any order to participate in an extrajudicial execution. An order from a superior officer or a public authority must never be invoked as a justification for taking part in an extrajudicial execution.

10. Investigation

Governments should ensure that all complaints and reports of extrajudicial executions are investigated promptly, impartially and effectively by a body which is independent of those allegedly responsible and has the necessary powers and resources to carry out the investigation. The methods and findings of the investigation should be made public. The body of the alleged victim should not be disposed of until an adequate autopsy has been conducted by a suitably qualified doctor who is able to function impartially. Officials suspected of responsibility for extrajudicial executions should be suspended from active duty during the investigation. Relatives of the victim should have access to information relevant to the investigation, should be entitled to appoint their own doctor to carry out or be present at an autopsy, and should be entitled to present evidence. Complainants, witnesses, lawyers, judges and others involved in the investigation should be protected from intimidation and reprisals.

Amnesty International September 1996

AI: Index AMR 18/09/96

Bolivia - Awaiting Justice (Appendix IV)

11. Prosecution

Governments should ensure that those responsible for extrajudicial executions are brought to justice. This principle should apply wherever such people happen to be, wherever the crime was committed, whatever the nationality of the perpetrators or victims and no matter how much time has elapsed since the commission of the crime. Trials should be in the civilian courts. The perpetrators should not be allowed to benefit from any legal measures exempting them from criminal prosecution or conviction.

12. Compensation

Dependants of victims of extrajudicial execution should be entitled to obtain fair and adequate redress from the state, including financial compensation.

13. Ratification of human rights treaties and implementation of international standards

All governments should ratify international treaties containing safeguards and remedies against extrajudicial executions, including the International Covenant on Civil and Political Rights and its first Optional Protocol which provides for individual complaints. Governments should ensure full implementation of the relevant provisions of these and other international instruments, including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, and comply with the recommendations of intergovernmental organizations concerning these abuses.

14. International responsibility

Governments should use all available channels to intercede with the governments of countries where extrajudicial executions have been reported. They should ensure that transfers of equipment, know-how and training for military, security or police use do not facilitate extrajudicial executions. No one should be forcibly returned to a country where he or she risks becoming a victim of extrajudicial execution.