

Dekret 50

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Amnesty International
International Secretariat
1 Easton Street
London WC1X 8DJ
United Kingdom

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EL SALVADOR

TWO CASES OF LEGAL CONCERN

INTRODUCTION

Since President José Napoleón Duarte assumed office in June 1984, Amnesty International (AI) has continued to receive reports of human rights violations, including arbitrary arrests, "disappearances", torture and extrajudicial executions of non-combatant civilians. The victims are people suspected of being in opposition to the present government or of being sympathetic to those that are. Such violations, however, appear to be now taking place on a more selective basis than in previous years. Trade unionists, academics, human rights workers and those working with displaced people appear to have been particular targets of such violations in recent months.

Attributions of human rights violations to the so-called death squads have also fallen substantially. In contrast, the number of acknowledged arrests, both short and long-term, rose as compared with previous years. The Salvadorian judicial system, described in a resolution passed by the United Nations (UN) General Assembly in December 1986 as "notoriously" unsatisfactory, remained unable to process the cases of those detained. By the end of the year, it was estimated that 90 % of the more than a thousand people believed held for political reasons had not been tried; some had been in untried detention for as long as four and five years.

Reports have also been received of abuses, including the kidnapping and killing of civilians, committed by armed opposition groups.

AMNESTY INTERNATIONAL CONCERNS

AI's main concerns with respect to the cases summarized in the Appendix are:

- allegations that extrajudicial statements are obtained under torture or other forms of inhuman or degrading treatment;
- that Decree 50 of February 1984, which permits a 15-day-period of administrative detention (eight of which may be complete incommunicado detention), creates a judicial framework which contributes to such abuses;

- the apparent lack of progress in legal proceedings against political prisoners;
- the apparent lack of investigations into, and the absence of proceedings against those suspected of torture and other forms of inhuman or degrading treatment.

POLITICAL IMPRISONMENT IN EL SALVADOR

Political prisoners in El Salvador have been held under the terms of Decree Law 50 or Ley de Procedimientos Penales al Suspenderse las Garantías Constitucionales (Law of Penal Proceedings Applicable upon the Suspension of Constitutional Guarantees), since it was promulgated by the Legislative Assembly on 24 February 1984. It was, according to Article 43, to have effect for one year until 29 February 1985, but was extended for another year until 28 February 1986 and again until February 1987.

Decree Law 50 has governed penal proceedings against persons over the age of 16 who are accused of offences against the State while Constitutional guarantees were suspended. (1) It establishes four judicial bodies: Military Examining Judges, Military Judges of the First Instance, Courts Martial and the General Command of the Armed Forces. In theory, from the moment of capture, a prisoner's case goes through the following stages (2):

(1) Constitutional guarantees were initially suspended in El Salvador in March 1980 when a State of Siege was imposed. Since then it has been almost uninterruptedly reimposed every 30 days. The State of Siege suspends inter alia freedom of movement and residence, freedom of thought and expression, inviolability of correspondence and the right of assembly.

However, a January 1987 strike by 27 opposition deputies in protest at reforms of the electoral law approved by the Assembly in December 86, has stopped El Salvador's Legislative Assembly from extending the State of Siege for another 30 days. A two-thirds majority (ie. 40 out of the total 60 votes) is required for the State of Siege to be reimposed. The ruling Christian Democrat Party has only 33 votes. In theory, therefore, constitutional guarantees have been restored and Decree 50 is currently not applicable. According to human rights groups in El Salvador, this means that at least for the immediate future, those cases originally processed under Decree 50 will continue to be processed under this Decree. New cases should be processed according to legal procedures set out in the Constitution.

(2) It should be noted, however, that as cases rarely, if ever, have passed through the stages established by the Decree, and as AI knows of no available transcripts from Decree 50 proceedings, some analysts have differed slightly in their understanding as to what constitutes exact timing and procedures for each period established.

15 days : Administrative detention (detención administrativa), while the security forces continue their investigations. Persons captured by the armed forces must be transferred to security force custody within 72 hours after capture. By the end of the 15 days the person must be charged and brought before a Military Examining Judge or else released.

72 hours : Period allowed for the Military Examining Judge (Juez Militar de Instrucción) to make inquiries and decide whether there is a basis for the continued provisional detention. Only once the provisional detention has been ordered, has the accused the right to legal counsel.

60 days : Maximum period allowed for the Military Examining Judge to conclude the examination stage (fase de instrucción). If the prisoner is not ordered released, the case is transferred to a Military Judge of the First Instance (Juez de Primera Instancia Militar).

15 days : Additional period allowed for the Military Judge of the First Instance to examine the case, who then orders a stay of proceedings (dictar sobreseimiento) or commits the case to the plenary court (elevar a plenario). This decision may be appealed to the Courts Martial. If the Judge of the First Instance revokes the decree of detention, the prisoner must be released. In cases where a stay of proceedings has been ordered, the prisoner cannot be released until the decision is confirmed by the Court Martial.

15 days : Period allowed for examination of evidence if the case is elevated to the plenary court.

3 days : Period allowed for parties to present their respective pleadings (las partes presenten sus respectivos alegatos de bien probado).

10 days : The Military Judge of the First Instance must declare the verdict (pronuncia fallo) within 10 days. This decision may also be appealed to the Courts Martial.

a) Aministrative detention

Decree 50 permits a total of 15 days of administrative detention during which the prisoner may not be allowed access to legal counsel or visits from relatives. During the first 8 days of administrative detention, the prisoner may be held completely incommunicado. It is not uncommon for prisoners to state that they did not know until several days later where they were being held. People are often captured at night, by armed men in plain clothes who neither identify themselves nor present a warrant for arrest. They may be taken away blindfolded and driven around town so as to disorient them. They are also often kept blindfolded in their cells and during interrogation. These procedures are apparently intended to create an immediate sense of insecurity and isolation in the detainees.

After the first 8 days of incommunicado detention, the prisoner may then be permitted visits from the International Committee of the Red Cross (ICRC) and the Comisión de Derechos Humanos de El Salvador, gubernamental (CDH), governmental Human Rights Commission of El Salvador, only. Once prisoners have been visited by the ICRC, their families are informed of their detention and they are officially registered as prisoners and so no longer run the risk of "disappearing." (The ICRC does not publish its findings regarding visits to detention centres, but does make them regularly available to Salvadorian government officials, including President Duarte.)

b) Interrogation and torture during administrative detention

During the 15 day permissible period of administrative detention prisoners are interrogated about their suspected membership in opposition groups or other "subversive" associations. (For a group/association to be considered subversive, it is sufficient for the Minister of Defence to state that the group/association in question has carried out offences of a subversive nature. For a group/association to be considered illegal, it is sufficient for the Minister of Interior to make a statement to that effect.)

In the course of their interrogation prisoners frequently claim to have been subjected to rape, beatings, electric shocks, submersion in water. Prisoners are also testifying to the increasing use of death threats, threats that their families will be hurt, threats of rape, sleep deprivation and food deprivation, apparently because this form of coercion doesn't leave physical marks.

After detailed analysis of material from a variety of sources, including prisoner testimonies, national and foreign press, the church, national and international human rights groups and professional groups such as trade unionists and academics, AI has concluded that the most critical and vulnerable period for the prisoner is the eight-day incommunicado period immediately following capture, before the prisoner's detention has been acknowledged and when they are therefore at the mercy of their captors.

c) Extrajudicial statements

The torture and other cruel, inhuman and degrading treatment to which prisoners are subjected appears intended to force them to sign extrajudicial statements - statements or confessions made to the security forces, rather than to a judge - admitting to "subversive" activities. (El Salvador's Constitution of 1983 had provided, under Article 12, that detainees should not be obliged to make a declaration and that declarations obtained without a person's consent lack validity.) In his 5 November 1985 interim report to the UN General Assembly, Prof. José Antonio Pastor Ridruejo, Special Representative on El Salvador of the UN Commission on Human Rights stated that he had found "...indications that severe psychological pressure, equivalent to cruel, inhuman or degrading treatment, has been exerted in extrajudicial interrogations of some political prisoners, giving rise to confessions which do not reflect the truth...". The Supplement to the UN Special Representative's report included several such cases of prisoners who claimed they were coerced into signing extrajudicial statements.

Numerous other reports and testimonies state that prisoners are often made to sign blank pages, or that they are not allowed to read what they are signing or are forced to sign while blindfolded. Such "confessions" (described by El Salvador's Auxiliary Archbishop Mons. Gregorio Rosa Chávez as "declarations at times totally divorced from reality") may then, under Article 28 of Decree 50, be used as evidence against the prisoner and can thus form the basis for his/her continued detention. [Article 28 states: "... an extrajudicial confession shall be deemed admissible provided that it is consistent with the other evidence available at the trial. It must be made within 15 days of the arrest of the accused and be witnessed by two people who shall also declare that the accused was not subjected to physical violence or to intimidation"]. Precisely because detainees cannot be held longer than 15 days without evidence against them being produced, they are often coerced into signing a "confession" during this period, thus providing the justification for continued detention.

The two witnesses referred to in Article 28 are not further defined and, according to the Salvadorian Oficina de Tutela Legal del Arzobispado (Legal Aid Office of the Archbishopric), "... can therefore be - and usually are - members of the capturing agency." ("... por lo que tales testigos pueden ser - y lo son normalmente - miembros de los cuerpos captores"). In fact, they may be the very persons who coerced the prisoner into signing the extrajudicial statement.

AI has appealed on numerous occasions to the Salvadorian authorities to ensure that no statements obtained under coercion be used as evidence against the prisoner. In its appeals, AI has cited the UN Declaration on the Protection of all Persons from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the UN General Assembly on 9 December 1975, which stipulates under Article 12 that "Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment may not be invoked as evidence against the person concerned or against any other person in any proceedings." No reply has been received from the Salvadorian authorities.

d) Hiding of prisoners in administrative detention

AI has received information that prisoners have sometimes been hidden when delegates from the ICRC were granted access to the security force facility where they were being detained. According to foreign journalists, national human rights groups, religious personnel, visiting delegations and former prisoners who have provided AI with information on such cases, this may be because the prisoners had not yet signed the extrajudicial statement their captors wanted them to sign, or because the prisoners had been so maltreated that the marks were still visible.

e) Acknowledged detention

If after the permissible 15 days of administrative detention it is decided that there is a basis for continued provisional detention, prisoners are transferred to official detention centres, principally to La Esperanza (Hope) men's prison in San Luis Mariona, north of the capital San Salvador or to Ilopango women's prison, east of the capital. Both penitentiaries fall under the jurisdiction of the

Ministry of Justice (the security force detention centres fall under the jurisdiction of the Ministry of Defence). The combined political prisoner population of the two facilities is now believed to be well over 1,000 and there have been reports of severe overcrowding.

f) Violation of time limits

Once in official detention, prisoner cases should pass through the phases outlined on p. 3 (above). However, AI has been concerned that the legally permitted maximum time periods established by Decree 50 are seldom respected and that few prisoners have been tried or sentenced. The Legal Aid Office of the Archbishopric, for instance, publicly stated in January 1986 that

"... in practice, proceedings against prisoners are not pursued in the manner referred to in Decree 50, with time limits not being respected, thus causing harm to the prisoners... The fact that proceedings are not being followed permits many innocent people being detained ... " ("...en la práctica no se siguen los procesos de los reos a que se refiere el Decreto 50, no respetándose los términos por lo que los detenidos sufren perjuicios adicionales... Si no se siguen los procesos ... ello permite que muchas personas inocentes estén sufriendo detención sin tener culpabilidad alguna...").

In his November 1986 Supplement to his Report on the Human Rights Situation in El Salvador, the UN Special Representative stated that according to testimony received "... time limits established by Decree 50 -on their own already lengthy - are often not adhered to ..." ("... se siguen incumpliendo con frecuencia los plazos - ya largos de por sí - establecidos en el Decreto No. 50...").

A study undertaken by the Socorro Jurídico Cristiano "Arzobispo Oscar Romero" (independent Christian Legal Aid Office) covering the period January - August 1986 found that even the time limits of administrative detention, established by Decree 50 as being a maximum of 15 days, are not adhered to in 20% of cases of male political prisoners and for 27% of the female political prisoners.

The lack of respect for the phases established by Decree 50 are at variance with the measure itself which establishes in Article 12 that if time limits are not respected "liability for unlawful imprisonment will arise" ("se incurrirá en responsabilidad penal por los delitos contra la libertad").

g) Legal representation and intimidation of the judiciary

Resolution of Decree 50 cases is also delayed because political prisoners and their relatives have encountered difficulties in securing legal representation. Lawyers taking up the defence of those accused of subversion are easily branded as subversives themselves and can thus become targets of repression. On 21 August 1985 Ana Lilian Carranza Serrano, a law graduate, was on her way to a bus stop when she was approached by a man who poured acid over her. She was on her way back from La Esperanza prison where she had been visiting a political prisoner whom she was defending. (Article 16 of Decree 50 states that an accused has the right to be defended by a "lawyer or a student of law who has passed the examinations relating to the Criminal Code and

the Code of Criminal Procedure and whose university studies have been completed no longer ago than two years".) Ana Lillian Carranza was hospitalized but is reported to have died of her wounds.

Corruption and bribery of lawyers and judges has also been reported. One letter received by AI from a political prisoner, for instance, talked of lawyers charging US\$ 1,000 in legal fees (sums which most people are unable to pay) and claimed that lawyers in El Salvador "only make you pay and don't do anything ...". The prisoner also writes that a fellow-prisoner was released because the family were friends of the judge.

A recent study by the New York Lawyers Committee for Human Rights reported that Salvadorian judges work only part-time, thus obliging many of them to run private practices as well. The Lawyers Committee found that this not only contributed to delays in legal proceedings but also created potential conflicts of interest and so called into question the independence of the judiciary. The UN Special Representative on El Salvador also reported that the psychological pressure to which judges are subjected, many having been assassinated or threatened in the past (presión psicológica a que se ven sometidos los jueces, muchos de ellos asesinados o amenazados en períodos anteriores), was a factor contributing to the inadequate functioning of El Salvador's judicial system, as was the fear of witnesses to testify in proceedings with political implications (temor de los testigos declarar en los procedimientos con implicaciones políticas).

h) Untried detention

These delays have contributed to a situation where few political prisoners in El Salvador have actually been tried or sentenced. The Lawyers Committee for Human Rights study reported that over 90% of El Salvador's political prisoners were held in untried detention. According to statistics received by AI at the end of 1986, some 970 political prisoners were being held in La Esperanza prison and some 75 in Ilopango prison. As noted, some have been held for as long as five years without trial. Most of them have no idea of the legal status their case has reached nor when they can expect to be released.

i) Efforts at reform of Decree 50 and procedures established under it

In response to criticisms of such long-term and widespread delays under Decree 50 proceedings, Decree 435 of 19 August 1986 established two additional military Courts of the First Instance, and the new judges took office on 1 September. (Previously there had only been one military Court of the First Instance to deal with Decree 50 proceedings.) More thorough-going reforms have however been called for by a number of institutions including the Inter-American Commission on Human Rights of the Organization of American States which for example urged in its 1986 report that the measure be made "consistent with the guarantees inherent in due process, which El Salvador is internationally required to respect." The Legal Aid Office of the Archbishopric has also called for revision of the law.

Indeed, in September 1985 President José Napoleón Duarte had appointed a 10-member Comisión Revisora de la Legislación Salvadoreña (Revisory Commission of Salvadorian Legislation) to study and recommend reforms of the entire Salvadorian judicial system. The recommendations of the

President's Special Commission were to have been available in September 1986. In his November Supplement to his 1986 Report on the Human Rights Situation in El Salvador, the UN Special Representative on El Salvador, Prof. Pastor Ridruejo reported that

"...according to explanations given by the President of the Revisory Commission of Salvadorian legislation, the modification or substitution of Decree 50 figures among the immediate projects of that Commission." ("...según explicaciones dadas por el Presidente de la Comisión Revisora de la legislación salvadoreña, entre los proyectos inmediatos de dicha Comisión figura la modificación o sustitución del mencionado Decreto No. 50.")

However, at the time of writing, in February 1987, AI is unaware of any reforms that may have been made to Decree Law 50. The organization considers that lack of political will to put an end to human rights violations in El Salvador remains an important factor in explaining delays in reforming Decree 50 and the abuses including torture and long-term untried detention which have been widespread while it has been in force. Prof. Pastor Ridruejo's November Supplement also concluded that

"...as a whole, the activity of the Salvadorian judicial system in investigating and punishing the serious human rights violations committed with a political objective, is highly unsatisfactory. It is true that penal proceedings are initiated in all or in almost all instances, but those proceedings appear to make extraordinary slow progress." ("...en su conjunto, la actividad del sistema judicial salvadoreño para investigar y castigar las graves violaciones de derechos humanos cometidas con intencionalidad política es altamente insatisfactoria. Es verdad que se inician procedimientos penales en todos o en casi todos los supuestos, pero la impresión es que esos procedimientos avanzan a un ritmo extraordinariamente lento...").

Anmerkung: Dekret 50 mußte ^{* * *} jeden Monat durch das Parlament (Asamblea Legislativa) mit 2/3-Mehrheit verlängert werden. Im Januar 87 nahmen 27 Abgeordnete der ultrarechten Opposition aus Protest gegen eine Reform des Wahlgesetzes nicht an den Sitzungen des Parlaments teil. Deshalb ist Dekret 50 außer Kraft gesetzt. Mit einfacher Mehrheit wurde am 11. März 87 das Dekret 618 verabschiedet, das bis auf einige Formalitäten mit dem Dekret übereinstimmt u. bis zum 10. Sept. 87 in Kraft ist.
(Es fehlt der letzte Satz in Kapitel 1, Artikel 1: „Esta ley se aplicará únicamente en el caso de suspensión de las garantías constitucionales.“)

Article 8. Right to a Fair Trial

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, 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 by counsel provided by the State, paid or not as the domestic law provides, 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 judgment to a higher court.

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 judgment, 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.

UNITED NATIONS INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
(ENTERED INTO FORCE IN 1976). RATIFIED BY EL SALVADOR ON 30.11.79

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. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes of the guardianship of children.

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;

(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.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

UNITED NATIONS DECLARATION ON THE PROTECTION OF ALL PERSONS FROM TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (ADOPTED ON 9 DECEMBER 1975). NOT RATIFIED BY EL SALVADOR.

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."

AMR 29/02/87 - APPENDIX

February 1987

EL SALVADORTWO CASES OF LEGAL CONCERNI. JORGE ALIRIO PONCE MARTINEZ

26-year-old former member of the Comisión de Derechos Humanos de El Salvador, no-gubernamental (CDHES), non-governmental Human Rights Commission of El Salvador. Arrested on 7 November 1985 in Ilopango, San Salvador department by members of the National Police and accused of belonging to one of El Salvador's armed opposition groups. On 12 November 1985 his case was assigned to a Juez Militar de Instrucción (Military Examining Magistrate) and he was transferred to La Esperanza men's prison in Mariona. On 13 January 1986 his case [Case No. 51/86] was referred to a Juez de Primera Instancia Militar (Military Court of the First Instance).

In response to enquiries made by US Senator Tribble regarding the case, the US Department of State replied on 14 July 1986 that Jorge Alirio Ponce "filed a habeas corpus petition before the Salvadoran Supreme Court, effectively freezing lower court action until the petition was decided. The Supreme Court found on May 30 that there were sufficient grounds to continue ... Mr. Ponce's detention and returned the case to the trial court. [He is] now in Mariona prison awaiting trial."

Jorge Alirio Ponce Martínez represented the CDHES abroad in November 1984 when he went to Vienna to accept the Bruno-Kreisky Humanitarian Award in the name of the CDHES. He was a CDHES member between 1983 and July 1985 when he reportedly left for personal reasons. He worked in the group's legal aid section.

According to a testimony given by Ponce in La Esperanza prison on 14 November 1985 to a Salvadorian human rights group, a copy of which has been made available to AI, he was beaten with rifle butts, blindfolded and handcuffed while in National Police custody. A rope was put around his neck and tightened until he lost consciousness. The National Police, however, have denied mistreating Ponce.

In June 1986, the Salvadorian authorities informed AI that Ponce Martínez, in an extrajudicial statement on 9 November 1985 (while still in National Police custody) "confessed to belonging to [the Fuerzas Armadas de Liberación Nacional (FARN-RN), Armed Forces of National Liberation] and to have had received training in Cuba."

AI is unaware of further developments in the case since it was returned to the trial court on 30 May 1986. AI first appealed on Ponce's behalf on 22 November 1985 (UA 315/85 follow-up AMR 29/51/85) and again in February 1986 (AMR 29/07/86 Detention and Alleged Torture of Joaquín Antonio Cáceres Hernández (1) and Jorge Alirio Ponce Martínez), asking for an investigation into the allegations of ill-treatment and for details of the charges against him. In view of the fact that over a year has now passed since Ponce Martínez's arrest, AI is asking the Salvadorian authorities for details of his present legal situation. The organization is also asking once again for an investigation into the prisoner's charges that he was ill-treated while in National Police custody.

II. MORENA MARGARITA RIVAS QUIJADA

Morena Margarita RIVAS QUIJADA, 25-year-old secretary and English language student at the National University of El Salvador, was arrested in the capital San Salvador on 7 March 1986 by members of the Policia de Hacienda (Treasury Police) while on her way home from work. She has been accused of belonging to the Fuerzas Populares de Liberación (FPL), Popular Forces of Liberation, one of El Salvador's armed opposition groups and was transferred to Ilopango prison for women on 21 March. She was three months pregnant at the time of her arrest.

In her testimony given in Ilopango prison to the CDHES on 31 August 1986, Morena Margarita Rivas Quijada states that during her administrative detention and interrogation by the Treasury Police, she was slapped in the face and kept standing for days with her hands tied above her head. She also claims to have been threatened with rape and with being thrown into the river.

"After eight days of being in these horrible cells, without any light whatsoever, I was moved to the cells where the common prisoners are. There I was visited by the governmental Human Rights Commission. I spent five days there, and then they took me out to sign a declaration, making threats and without my knowing what it said... I did not know what it contained until I came here from the court and could read it..."

In response to AI appeals on behalf of Morena Margarita Rivas Quijada, the Salvadorian authorities stated on 4 June 1986 that according to the governmental Human Rights Commission "In an extrajudicial statement on 18th March 1986 she confessed to belonging to this group [FPL]. Her case is now undergoing investigation. She is pregnant and in perfect condition (sic)." The Embassy's statement makes no comment on Morena Margarita Rivas Quijada's assertion that she arrived in Ilopango prison in bad health, with a temperature and an inflamed throat.

Her August statement also declares that

"After six and a half months of pregnancy, the birth was precipitated, after I had had two more kidney infections. I was attended by the ISSS (1) ... I had a fever, my waters had burst, but I had no contractions. They induced labour as it was clear I had an infection. My daughter was born very tiny ... They had her in an incubator ... The ISSS arranged for me to come every day so that they could extract my milk to give to her ... She was born on the 29th of June and died on the 1st of August..."

(1) Press and Information Secretary of the CDHES; released in December 1986.

The case of Morena Margarita Rivas Quijada was assigned to a Juez Militar de Instrucción (Military Examining Magistrate) on 19 March 1986. AI is unaware of any further developments in the case since that date. The organization first appealed on her behalf on 14 March 1986 (UA 61/86 AMR 29/15/86 and 29/19/86), asking for details of the charges against her. In view of the fact that almost a year has passed since her arrest, AI is appealing to the Salvadorian authorities for details of her present legal situation. The organization is also asking for an investigation into the allegations of ill-treatment the prisoner claims to have been subjected to while in National Police custody and is asking that no statements obtained under duress be used as evidence against the prisoner. With respect to the death of Morena Margarita Rivas Quijada's one-month-old baby, AI is asking for an investigation into the circumstances surrounding its death.

(1) Instituto Salvadoreño del Seguro Social (Salvadorian Social Security Institute).