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Peru

Letter to the President in support of the work of the Truth and Reconciliation Commission

Public

AI Index: AMR 46/011/2003

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

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Summary

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Amnesty International considers that the Truth and Reconciliation Commission's role in the transition to democracy that has been taking place in the country since November 2002 is extremely important. It is in this context that the organization sent the attached letter to President Alejandro Toledo on 6 July 2003 expressing once again its support for the Commission and emphasizing its importance in making progress towards truth, justice and reconciliation after two decades of internal conflict between the state and the armed opposition groups, *Sendero Luminoso*, Shining Path and the *Movimiento Revolucionario Túpac Amaru* (MRTA), Túpac Amaru Revolutionary Movement.

Amnesty International is concerned about recent declarations made by some members of the Peruvian Congress, criticizing the work of the Truth and Reconciliation Commission and asking for its activities to be suspended.

In its letter to the President, the organization urges the Peruvian authorities to show its active and unequivocal support for all levels of the Truth and Reconciliation Commission and the work it has undertaken.

In addition, Amnesty International urges the Peruvian Government to implement a wide-ranging national human rights program to ensure that by the end of its term of office, the rights of all people in Peru will be respected, independently of their gender, race, ethnicity, economic situation or social status, and that measures to protect the most vulnerable groups have been implemented.

The organization believes that in the present transition to democracy, Peru must take measures to protect all Peru's people, and abide by international human rights standards such as the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic and Cultural Rights, both ratified by Peru in 1977, and other relevant instruments to which Peru is a state party.

This document is a summary of the attached letter of reference TG AMR 46/03.18, dated 6 July 2003, from Amnesty International to the President of the Republic of Peru, Alejandro Toledo Manrique. If you require more information or want to take action on this issue, read the last page of this document. You can find a broad selection of material on this and other issues at <http://www.amnesty.org>. You can receive our press releases by email: <http://www.web.amnesty.org/ai.nsf/news>. For documents translated into Spanish, please consult the EDAI "Documentation Centre" at: <http://www.edai.org/centro/>.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

President Alejandro Toledo Manrique
Presidente de la República del Perú
Palacio de Gobierno
Plaza Mayor
Lima 1
PERU

London, 6 July 2003

Dear Mr. President:

Amnesty International welcomed the establishment of the Truth and Reconciliation Commission (Supreme Decree N° 065-2001-PCM) and has closely followed the investigations and the compilation of testimony and evidence carried out by the Commission since it was set up in June 2001.

Amnesty International considers that the Truth and Reconciliation Commission's role in the transition to democracy that has been taking place in the country since November 2000 is extremely important. That is why the organization is extremely worried at reports about the attacks and criticism to which it has been subjected since it was set up. Such attacks and criticism have come from various sectors and their only intention seems to have been to hinder and undermine its work.

In particular, the organization is concerned about reports received in recent weeks about declarations made by some members of the Peruvian Congress, criticizing the work of the Truth and Reconciliation Commission and asking for its activities to be suspended. These reports claim that members of Congress criticized the Commission because, firstly, it decided to hear the testimony of four leaders of the armed opposition groups, *Sendero Luminoso*, Shining Path and the *Movimiento Revolucionario Túpac Amaru* (MRTA), Túpac Amaru Revolutionary Movement and, secondly, it declared that *Sendero Luminoso* should be seen as a political party with a dogmatic and authoritarian ideology, that has carried out terrorist and criminal activities against agents of the state and defenceless civilians, rather than simply as a gang of criminals.

Amnesty International considers that the Truth and Reconciliation Commission can make an important contribution to the transition to democracy and to a true reconciliation of Peruvian society, by helping the country to understand its history, providing an official and consensual interpretation of the violations committed during the internal conflict, and clarifying some of the reasons that contributed to the violence. To overcome its painful and violent recent past, in which tens of thousands of people lost their lives (according to data published by the Truth and Reconciliation Commission) and thousands were victims of other grave abuses and violations of human rights and humanitarian law, by both armed opposition groups and members of the armed and security forces, Peruvian society has to face up, in a critical way, to the

reality of the serious violence of this period, so it can understand the real dimension and gravity of these events, obtain the necessary information and, in this way, find out what really happened.

Amnesty International also considers that the Truth and Reconciliation Commission can contribute to promoting the state's compliance with its obligations to prevent human rights violations and to investigate them, prosecute and punish their authors and provide reparation when they occur.

The right to truth, recognized for many years by the Inter-American Human Rights Commission, includes the "right of any individual victim or closely related persons to know what happened". Moreover, "the knowledge of the oppression it has lived through is part of a people's national heritage" (*Op. Cit.* United Nations High Commission for Refugees document E/CN.4/Sub.2/1997/20/Rev.1, para. 17). In the words of the Inter-American Human Rights Commission: "the right to truth is a collective right which allows a society to gain access to information essential to the development of democratic systems, and also an individual right for the relatives of the victims, allowing for a form of reparation" (Inter-American Commission on Human Rights, Report N° 136/99, 22 December 1999, case 10.488 - Ignacio Ellacuría and others, para. 224).

In this sense, Amnesty International thinks that the Truth and Reconciliation Commission's report to the Peruvian authorities in August will contribute not only to revealing many of the patterns of human rights and humanitarian law violations committed between May 1980 and November 2000, but also to establish some of the responsibility among the different actors involved in the internal conflict.

The organization believes that both the publication and extensive dissemination of the Truth and Reconciliation Commission's report, and the process of compiling testimonies undertaken by the Commission in much of the national territory, are very important. The Commission's approach to the survivors of the violence, whose denunciations were previously ignored, and the way it has given validity and dignity to the suffering they experienced by listening to them and giving them an opportunity to speak, has been especially important in Peru, where, according to the Commission's initial conclusions, a large percentage of victims belonged to historically vulnerable and marginalised sectors of society, mainly Andean peasant and indigenous peoples with few economic resources and little education. Amnesty International trusts that the Government will give due weight and importance to the results of the Truth and Reconciliation Commission's investigation.

In addition, as established by the *Set of principles for the protection and promotion of human rights through action to combat impunity* "there can be no just and lasting reconciliation without an effective response to the need for justice" (Inter-American Commission on Human Rights, Report N° 136/99, 22 December 1999, case 10.488 - Ignacio Ellacuría and others, para. 26). Amnesty International believes that this requires the state to investigate violations, identify those responsible and punish them if they are proved to be guilty. It is important to eradicate the impunity that

has been institutionalized in the country for years and made legal during the last five years of Alberto Fujimori's government by the approval of two amnesty laws in 1995, and to make clear that such acts will no longer be tolerated in Peru. To this end, Amnesty International welcomes the Truth and Reconciliation Commission's decision to transfer information on fully documented cases to the courts, including the identity of those allegedly responsible for violations. The organization hopes that your government will unreservedly support the right of victims to seek justice and guarantee that the prosecution of alleged perpetrators of human rights violations will take place with the due guarantees.

In addition to the right to know, and the right to justice, the victims of human rights violations and their families have the right to reparations. The *Set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law* (United Nations Document, E/CN.4/Sub.2/1996/17) specifies that reparations shall include restitution, compensation, rehabilitation and guarantees of non-repetition. To lose the right to life and physical integrity are irreparable losses. However, Amnesty International believes that moral and material reparations are absolutely necessary for national reconciliation and a return to democracy.

Amnesty International hopes that your government will contribute to a process of true reconciliation by establishing a national reparations programme for the victims, and introducing reforms, including institutional reforms, to avoid the identified events and patterns happening again in the future. The organization also hopes that such a programme will include measures for providing economic as well as moral reparations to the victims. Moreover, and in view of the Truth and Reconciliation Commission's initial conclusions that a large number of victims of the internal conflict were people from ethnic groups and social sectors historically marginalised and discriminated against in Peru, the organization trusts that such a programme will include proposals to eradicate discrimination on ethnic and gender grounds and guarantee the full exercise of economic, social and cultural rights by these vulnerable sectors.

Amnesty International believes that social, economic, cultural, civil and political rights, which are fundamental to the dignity and development of every human being, are indivisible and universal. The context which gives rise to human rights violations, such as torture and extrajudicial executions, is invariably complex and cannot be divorced from issues related to the victims' social status and access to the legal system. The protection of civil and political rights cannot be fulfilled without the protection of social, economic and cultural rights. The organization believes that in the present transition to democracy, Peru must take measures to protect all Peru's people, and abide by international human rights standards such as the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic and Cultural Rights, both ratified by Peru in 1977, and other relevant instruments to which Peru is a state party.

Mr. President, Amnesty International considers that the active and unequivocal support of the Peruvian authorities, at all levels, of the Truth and Reconciliation

Commission, and the work undertaken by the commission, will contribute decisively to making a clear break between the past in which abuses and violations were committed with total impunity and a future in which respect for human rights for all will be a reality and will lead to the implementation of mechanisms that prevent a repetition of such violations and guarantee that any repetition of such acts will be investigated and those responsible will be brought to justice.

Finally, Amnesty International urges the Peruvian Government to implement a wide-ranging national human rights program that prioritizes the issues raised by the Truth and Reconciliation Commission's report and thereby ensure that by the end of your term of office, the rights of all people in Peru will be respected, independently of their gender, race, ethnicity, economic situation or social status, and that measures to protect the most vulnerable groups have been implemented.

I would welcome your comments to the issues discussed in this letter.

Yours sincerely,

for Irene Khan

General Secretary