

# OPEN LETTER TO THE PRESIDENTIAL CANDIDATES OF PERÚ

8 March 2011

With a view to the forthcoming presidential elections on 10 April in Peru, Amnesty International is writing to all the presidential candidates to raise the organization's human rights concerns with them.

Since the start of the electoral campaign, Amnesty International has noted with concern that the fundamental issue of human rights promotion and protection has been largely absent from the presidential candidates' debates and statements. In addition, the organization is concerned that representatives of the political parties participating in these elections have, on occasions, made statements contrary to the human rights principles to which Peru is committed.

Over the last decade, Peru has faced the great challenge of re-establishing the rule of law and overcoming a twenty-year legacy of serious human rights abuses and violations. Amnesty International welcomes the progress made in terms of guaranteeing respect for the human rights of all people, including the right of victims of human rights violations to truth, justice and reparation. Much still remains to be done, however, and it is worrying that, in some cases, steps have been taken that seek to erode human rights protection and guarantee impunity.

Amnesty International is particularly concerned by the continuing violations of the rights of Peru's most vulnerable, thus perpetuating years of discrimination and abuse. Indigenous peoples' rights to their territories and way of life continue to be violated in the name of development. Women and young girls, particularly those living in indigenous communities or in rural areas and with few resources, continue to have their sexual and reproductive rights denied. Hundreds die every year from preventable causes related to pregnancy and childbirth. Lesbian, gay and transgender people are discriminated on a daily basis because of their sexual orientation; they suffer ill-treatment and an excessive use of force from the police when they try to assert their rights. Human rights are indivisible. Those whose civil and political rights are violated and those who are discriminated against or subjected to ill-treatment, are very often the same people whose economic, social and cultural rights are being denied, including the right to health, to education and to housing.

Amnesty International urges each of Peru's presidential candidates to prioritise the promotion and protection of human rights in their party's electoral manifesto.

It is essential that the candidates commit themselves to approve and encourage the implementation of the **National Human Rights Plan 2012 – 2016**, and that this, in turn, includes a timetable for implementation, a budget and indicators, in addition to clearly defining responsibilities. This plan will need to include the following areas in particular:

#### **Take measures to eradicate discrimination**

Clear commitment must be shown to establish strategies, public policies and plans of action with adequate resources to ensure that the State fulfils its duty of non-discrimination due to reasons of race, gender, sexual orientation, ethnic group, age etc.

#### **Guarantee indigenous peoples' human rights**

The presidential candidates must show categorical commitment to respect indigenous peoples' rights, in particular their right to participate in the decision-making process and being consulted in order to obtain their free, prior and informed consent before any administrative or legislative measure that may affect them is adopted. Peruvian legislation therefore needs to be brought in line with the commitments made by the state when it ratified the ILO Convention 169 and adopted the UN Declaration on the Rights of Indigenous Peoples. Appropriate national mechanisms need to be established that will give indigenous peoples a voice and the opportunity to influence the decisions being made, and which will, in all cases give them as much control as possible over their own economic, social and cultural development.

Amnesty International specifically calls on the candidates to promote the urgent approval of a 'Consultation Law' and effective mechanisms for indigenous peoples that will fulfil these obligations. This needs to be the result of a genuine consultation process with the indigenous peoples' representative institutions. Guarantees must be given that no law or decision that may affect the interests or way of life of indigenous peoples will be enacted or implemented without the affected peoples first having been duly consulted.

With regards to the tragic events that occurred in Bagua in June 2009, Amnesty International urges the candidates to investigate the facts and ensure that victims, both civilian and those from the security forces, gain access to justice and appropriate reparation. In addition, the right to a fair trial for all those prosecuted for the Bagua events must be guaranteed.

#### **Implement international human rights commitments**

Amnesty International hopes that the candidates' electoral manifestos will specifically and unconditionally reflect Peru's commitment to international human rights standards. Particular attention must be paid to implementing decisions and rulings from both the Inter-American system, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, and the UN mechanisms, and to ensuring that no measures are taken that could be in breach of Peru's international human rights obligations. Efforts must also be pursued to bring Peruvian legislation in line with the Rome Statute.

#### **Guarantee the respect, promotion and protection of, Economic, Social and Cultural rights**

There needs to be a clear commitment to approve the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. In addition, strategies, public policies and action plans must be established and provided with adequate resources in order to ensure that the State fulfils its positive and negative obligations. These must be immediate and

gradual and in correlation to the economic, social and cultural rights of all people without discrimination and ensuring special protection for the poorest and most vulnerable.

### **Guarantee the rights to freedom of association and freedom of opinion**

The rights to freedom of association and freedom of opinion must be respected, ensuring that no-one is prosecuted or deprived of their freedom due to their critical attitude towards the authorities or for participating in peaceful protests.

In addition, guarantees must be in place to ensure that the security forces use proportional and gradual force, including the use of firearms, and that, should there be any complaint of human rights violations during a protest, such complaints are promptly investigated and the perpetrators brought to justice through the ordinary justice system.

Amnesty International urges the presidential candidates to repeal Legislative Decrees 1094 and 1095. These decrees send out a disturbing message of intolerance in relation to social protest. They make it possible for the military to use force in cases of social conflict and protest. This is concerning given that, in the past, the use of the army to maintain law and order has resulted in human rights violations. This legislation also means that cases involving excessive use of force by the armed forces can be tried through the military courts. Military courts in Peru are neither independent nor impartial and have a long history of perpetuating impunity.

### **Guarantee to promote and protect the sexual and reproductive rights of all**

Clear, accessible, non-discriminatory and measurable policies must be adopted, including educational programmes that will facilitate guaranteed access to sexual and reproductive health services and information, enabling people to make informed decisions.

Access to quality mother-and-child healthcare for women and young girls must be prioritized, particularly among those living in indigenous communities, rural areas or those with few resources, where the greatest number of preventable deaths during pregnancy and childbirth occur.

The candidates need to coordinate existing initiatives for preventing and reducing maternal mortality, including the protocol on therapeutic abortion. These must be incorporated into an action plan and provided with adequate resources and clear responsibilities. This should include all government ministries and all relevant regional and local authorities. The economic, physical and cultural barriers that prevent poor rural and indigenous women from accessing life-saving reproductive and maternal health care services, including emergency obstetric care, must also be systematically reduced.

Amnesty International recognises the Peruvian state's efforts to reduce maternal mortality rates; nonetheless, the candidates must pledge to correct all Peruvian legislation that creates obstacles to women's access to emergency obstetric services. Any legislation that criminalises abortion must also be rendered void. Moreover, the candidates must provide access to medical services for all women who, as a result of rape, sexual assault or incest, have fallen pregnant and undergone an abortion, either legal or illegal.

## **Impunity and reparation**

Priority must be given to implementing the recommendations of the Truth and Reconciliation Commission (TRC), published in 2003. For this, an action plan needs to be produced that sets out clear responsibilities, a timetable for implementation and monitoring mechanisms, and which is endowed with sufficient resources. This plan will also need to have an adequate budgetary allocation for this purpose.

The plan must, in particular, focus on measures that will ensure the right of all victims to justice and reparation. Amnesty International urges the next government to ensure that all efforts are made to uphold the right of victims of human rights violations, including victims of sexual violence, and their families to know the truth and to receive fair and adequate reparation for the suffering caused.

In this regard, assurances must be given that the Ministry of Defence will cooperate with the justice system, providing the necessary information to facilitate the investigation and prosecution of members of the Armed Forces implicated in human rights violations.

In addition, Peru's presidential candidates must not implement any measures that could guarantee impunity to the perpetrators of human rights violations, and lift any obstacles that prevent the investigation and prosecution of their crimes.

Once the criminal responsibility of members of the security forces or authorities implicated in human rights violations has been determined in a fair trial through the ordinary justice system, guarantees must be in place to ensure that the punishment is effective and proportional to the severity of the crime. In this regard, Amnesty International urges the presidential candidates not to enact any legislation that would grant amnesties to alleged perpetrators of human rights violations currently under investigation or prosecution. These laws perpetuate and legalise impunity, deny values of truth and justice and encourage more violations to be committed. These laws prevent the victims and their families from the truth and criminal responsibility from being ascribed, and are thus completely unacceptable.

In terms of presidential pardons or clemency for those sentenced for crimes against humanity, it is essential that the punishments imposed and enforced reflect the gravity of the crimes committed. Punishment is an essential element in the necessary reparation for the victims, in addition to being a way of overcoming years of impunity and injustice.

Amnesty International trusts that, in this final month of campaigning in the run-up to the elections on 10 April, the candidates will give due priority to the protection and promotion of human rights and will make clear and specific proposals in this regard, with a view to continuing to consolidate the rule of law with full respect for human rights.

Kind regards,

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