

# PERU

## Government rejects recommendation by UN human rights experts to abolish “faceless judges”

Amnesty International is seriously concerned that on 10 October 1996 Peru's Congress passed Law N° 26,671. This law effectively extends the use of “faceless judges” for terrorism-related trials for another year, until 15 October 1997.<sup>1</sup>

The continuing prohibition in the anti-terrorism legislation of the identification of civilian and military judges and other court officials contravenes Peru's obligations under international law to ensure fair trials before independent, impartial and competent courts.

On 25 July 1996 the UN Human Rights Committee adopted its Preliminary Observations in relation to the Government of Peru's third periodic report. In the Preliminary Observations the Human Rights Committee urged the Government of Peru “[...]that the system of ‘faceless judges’ be abolished and that public trials for all defendants, including those charged with terrorist-related activities, be reinstated immediately [and] that all trials [be] conducted with full respect for the safeguards of fair trial provided by article 14 [of the International Covenant of Civil and Political Rights...]”.<sup>2</sup>

In addition, the UN Special Rapporteur on the independence of judges and lawyers stated during his September 1996 visit to Peru that “the continuing use of ‘faceless judges’ makes a mockery of human rights [and] should be abolished immediately”.<sup>3</sup>

Following the Preliminary Observations of the Human Rights Committee, and the declarations by the Special Rapporteur, the Government of Peru opted to ignore their recommendation by passing Law N° 26,671. In addition, other elements enshrined in Peru's current anti-terrorism legislation continue to fall short of international fair trial standards. For example, trials continue not to be held in public, military courts retain jurisdiction over civilians charged with treason, and lawyers are prohibited from cross-examining members of the security forces involved in the detention and interrogation of suspects.<sup>4</sup>

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<sup>1</sup> See Appendix I for a copy of Law N°26,671 and a translation into English by Amnesty International.

<sup>2</sup> See UN Doc. CCPR/C/79/Add.67, para. 26.

<sup>3</sup> See press release by the Peruvian *Coordinadora Nacional de Derechos Humanos*, Appendix II.

<sup>4</sup> See Amnesty International *Peru: Prisoners of conscience*, AI Index: AMR 46/09/96, May 1996, Appendix 1.

*APPENDIX I*

*TRANSLATION OF LAW N°26671*<sup>5</sup>

**CONGRESS OF THE REPUBLIC**

**Date is set as from which trials of crimes of terrorism, provided for in Decree Law N°25475, will be heard before the relevant judges in accordance with current legislation.**

**LAW N° 26671**

**THE PRESIDENT OF THE REPUBLIC**

**WHEREBY:**

The Congress of the Republic has approved the following Law:

**THE CONGRESS OF THE REPUBLIC:**

Has approved the following law:

**Sole Article.-** As from 15 October 1997 trials of crimes of terrorism, provided for in Decree Law N°25475 and in appeal procedures before the relevant jurisdictions, will be heard before the relevant judges, in accordance with current procedural and administrative norms and as set out in this law.

Judges will be duly appointed and identified according to the rota system, which in turn will be determined by the Executive Commission of the Judiciary and the Executive Commission of the Public Ministry.

Inform the President of the Republic for its promulgation

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<sup>5</sup> Source: "Normas Legales", *Diario Oficial El Peruano*, Lima, 12 October 1996. The translation into English is by Amnesty International.

Lima, on the eleventh day of October of nineteen ninety-six

**VICTORJOY WAY ROJAS**

President of the Congress of the Republic

**CARLOS TORRES Y TORRES LARA**

First Vice-president of the Congress of the Republic

**TO THE CONSTITUTIONAL PRESIDENT OF THE REPUBLIC**

**WHEREFORE**

Order that it be published and observed.

Approved in Government House, Lima, on the eleventh day of October of nineteen ninety-six

**RICARDO MARQUEZ FLORES**

First Vice-president of the Republic

In charge of the Office of the President of the Republic

**ALBERTO PANDOLFI ARBULU**

President of the Council of Ministers

**RODOLFO MUÑANTE SANGUINETTI**

Minister of Agriculture

In charge of the Justice Portfolio

*APPENDIX II*