

EXTERNAL (for general distribution)

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Further information on UA 352/94 (AMR 46/16/94, 23 September 1994) - Arbitrary Detention / Fear of Torture / Fear of Unfair Trial and new concern: Prisoners of Conscience

PERU                      **María Elena Foronda (f), environmental activist**  
                                 **Oscar Díaz Barboza, environmental activist**

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Amnesty International has learned with dismay that prisoners of conscience María Elena Foronda and Oscar Díaz Barboza were sentenced to 20 years' imprisonment on 1 March 1995.

María Elena Foronda and Oscar Díaz were detained on 13 September 1994 by members of the *Dirección Nacional Contra el Terrorismo*, DINCOTE, the anti-terrorism branch of the police, in the town of Chimbote, Santa Province, Ancash Department, and charged with crimes of terrorism.

According to information received by Amnesty International, in November 1994 the examining judge in charge of the case ruled that there was no evidence of María Elena Foronda and Oscar Díaz having any links to the armed opposition group *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement, and ordered their unconditional release. However, under Peru's current anti-terrorism legislation, the lower court judges have to refer decisions on unconditional freedom in favour of the accused to a *Corte Superior*, higher court, for ratification or veto.

On 1 March 1995, six months after their detention, the *Corte Superior de Lambayeque*, High Court of Lambayeque, in the city of Chiclayo, Lambayeque Department, ruled that there was sufficient evidence to link María Elena Foronda and Oscar Díaz to the MRTA and sentenced them to 20 years' imprisonment. An appeal has been filed before the Supreme Court of Justice.

Amnesty International considers both to be prisoners of conscience, because there seems to be no credible evidence of them having any links to the MRTA and the charges they face appear to be politically motivated. Neither of them has used or advocated violence. Amnesty International is calling for their immediate and unconditional release.

#### BACKGROUND INFORMATION

Amnesty International believes that Peru's current wide-ranging anti-terrorism laws, which came into effect in May 1992, do not conform to pre-trial and fair trial procedures enshrined in international human rights standards, despite positive but limited amendments passed by the *Congreso Constituyente Democrático*, CCD, Democratic Constituent Congress, in November 1993 and November 1994.

Furthermore, Amnesty International considers that the anti-terrorism laws provide a judicial framework which facilitates the imprisonment of prisoners of conscience. Since May 1992 the organization has adopted 72 prisoners of conscience, 45 of whom have since been released, having been imprisoned for up to 30 months.

Human rights violations in Peru occur in the context of the government's

counter-insurgency operations directed against the clandestine armed opposition groups *Partido Comunista del Perú (Sendero Luminoso)*, PCP, Communist Party of Peru (Shining Path) and the *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement. Amnesty International has consistently and unequivocally condemned widespread abuses by these groups, including the deliberate and arbitrary killing of people not directly involved in the armed conflict. Nevertheless, such abuses can never justify violations by the authorities of fundamental human rights.

**FURTHER RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters:**

- expressing dismay that María Elena Foronda and Oscar Díaz Barboza were sentenced to 20 years' imprisonment on 1 March 1995;
- calling for their immediate and unconditional release, as they are prisoners of conscience who have not used or advocated violence, and whose detention appears to be politically motivated.

**APPEALS TO:**

1. President

Presidente Alberto Fujimori  
 Presidente de la República del Perú  
 Palacio de Gobierno  
 Plaza de Armas  
 Lima 1, PERU

**Faxes: +511 433 7020 (if voice line, ask "me da tono de fax, por favor)**

**Telegrams: Presidente Fujimori, Lima, Peru**

**Salutation: Sr. Presidente/Dear President**

2. Minister of Justice

Sr. Fernando Vega Santa Gadea  
 Ministro de Justicia  
 Ministerio de Justicia  
 Av. Emancipación y Lampa  
 Lima, PERU

**Telegrams: Ministro de Justicia, Lima, Peru**

**Salutation: Sr. Ministro/Dear Minister**

**COPIES OF YOUR APPEALS TO:**

Human Rights Organization

APRODEH  
 Jr. Pachacutec 980  
 Lima 11, PERU  
 Fax: + 5114 326915

and to diplomatic representatives of Peru accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 14 April 1995.