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**Appendix 1:**Massacres between January 1983 and April 1993 documented by Amnesty International.

**Appendix 2:**Statistics on "disappearances" and extrajudicial executions during the Government of President Alberto Fujimori.

# PERU

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### 1. Introduction

#### 1.1 A pattern of systematic human rights violations

Since January 1983 Amnesty International has obtained information, including detailed reports and testimonies, of widespread "disappearances", extrajudicial executions and torture by members of the security forces. These violations have mostly occurred in zones declared under a state of emergency and placed under political-military command. The pattern, evident during the administrations of former presidents Fernando Belaúnde Terry (1980-85) and Alan García Pérez (1985-90), has continued under the present government of President Alberto Fujimori. All three administrations have failed to take steps to investigate impartially and thoroughly the vast majority of these violations and to bring those responsible to justice.

Since 1983 Amnesty International has documented the cases of at least 4,200 people who "disappeared" in Peru after having been detained by the security forces. According to the Public Ministry, an autonomous government institution headed by the Attorney General and charged with investigating human rights violations, 5,419 "disappearances" were denounced to the Ministry during the 12-year period 1981 through 1992. Of these, over 4,000 remained unresolved.

Thousands more people have been killed since 1983 by government forces in extrajudicial executions, including some 500 people in 18 separate massacres documented by Amnesty International. Of these, eight massacres were reported to have been carried out during the present government's term of office. (See Appendix 1, "Massacres documented by Amnesty International between January 1983 and April 1993"). Reports of torture and ill-treatment by the security forces have also been frequent throughout the period.

The vast majority of "disappearances", extrajudicial executions and torture cases -- up to 85% of them, according to reports by independent human rights organizations in Peru -- have been committed by the armed forces, especially the army, in areas declared under a state of emergency. From 1988 onwards these practices spread beyond areas declared under a state of emergency and military control, to which they were originally confined, to nearly all parts of the country.

Since April 1992, in addition to the cases of "disappearance", extrajudicial execution and torture referred to above, Amnesty International documented some 50 cases in which prisoners suffered short-term arbitrary detention and were never charged. At least 2000 people were also detained on charges of terrorism, and by the end of April 1993 either awaited trial or were convicted and sentenced under procedures which fell short of international standards. Amnesty International believes that scores of these prisoners are prisoners of conscience or possible prisoners of conscience.

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## 1.2 The context of human rights violations

In May 1980, barely two months prior to the civilian government of President Belaúnde Terry being installed, the armed opposition group *Partido Comunista del Perú (Sendero Luminoso)*, PCP, Communist Party of Peru (Shining Path) carried out its first assault. The attack heralded a campaign which has been sustained over the past 13 years and which aims to overthrow the Peruvian state by violent means. In 1984 a second opposition group, the *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement, also launched an armed campaign against the state. Since the launch of these campaigns and of the governments' counter-insurgency operations, political violence has proliferated throughout most of Peru.

Accurate statistics on the total number of people killed by the security forces and the armed opposition during the internal armed conflict in Peru are not available. Statistics for the 13-year period 1980 through 1992 published by the independent *Instituto Constitución y Sociedad*, Constitution and Society Institute, put the number of dead in the ongoing conflict at 25,544. The *Instituto Constitución y Sociedad* reported a total of 3,101 deaths as a result of political violence during 1992 (as opposed to a total of 3,452 during 1990 and 3,180 during 1991). The *Coordinadora Nacional de Derechos Humanos*, CNDDHH, National Coordinating Committee for Human Rights, an independent human rights organization bringing together the figures supplied by several human rights groups in Peru, claimed that 26,149 people had been killed in the period 1980-1992. Of these, the CNDDHH claimed that 45% were killed by the PCP, 1% by the MRTA, and 53% by the government's security forces.

The figures published by both these organizations includes a large, but unspecified, number of people killed deliberately and arbitrarily by government forces and by the armed opposition. The victims of such summary killings include: killings by the security forces of civilians not involved in the armed conflict and of members of the armed forces who were hors de combat; and killings by members of the armed opposition of defenceless civilians and of members of the security forces who were also hors de combat.

## 1.3 Emergency legislation

The three civilian governments which have ruled Peru since 1980 have responded to proliferating political violence by imposing regularly renewed states of emergency. The first state of emergency was declared in 1981. The Ministry of the Interior and the *Policía Nacional del Perú*, Peruvian National Police, jointly assumed direct control over five provinces in the department of Ayacucho declared under a state of emergency. In December 1982 responsibility for internal order and counter-insurgency was transferred to the armed forces, under the overall direction of the Ministry of Defence.

Military control over the emergency zones was formalized in June 1985, when Congress passed Law 24,150. Responsibility for maintaining internal order in the emergency zones was placed directly under Political-Military Commands responsible to the *Comando Conjunto de las Fuerzas Armadas*, Armed Forces Joint Command. However, the government retained ultimate responsibility for internal order.

In theory, detainees do retain specific constitutional rights under emergency regulations. They have the right to be informed immediately and in writing of the reason for their detention, and must have access to a lawyer. They may not be held incommunicado except where the investigation of an offence requires it, and then only within the terms and form specified by the law. They may not be held clandestinely: the

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authorities must reveal their whereabouts without delay. Finally, detainees must not be forced to make statements through violent means. However, in the emergency zones the military have frequently failed in practice to respect these rights. Similarly, the police both in and outside the emergency zones have failed to respect human rights standards. Critics of President Fujimori's emergency government, following the suspension of constitutional rule in April 1992, claimed that the suspension further facilitated the phenomenon of unacknowledged detention. By the end of April 1993 it continued to be an underlying cause of the high level of "disappearance", extrajudicial execution and torture in the emergency zones.

At various times states of emergency have been terminated in some provinces only to be reintroduced later, in a regular pattern of imposition, renewal, termination and re-imposition. During significant periods of 1983 and 1984 the entire country was placed under a state of emergency. By the end of April 1993 states of emergency covered extensive areas of the Andean highlands, rainforest and coastal regions.

#### 1.4 Civilian government and human rights

A respect for human rights is provided for in the current Political Constitution of Peru. The Constitution came into effect in July 1980 with the restoration of civilian rule following a 12-year period of military governments. The full text of the 1948 Universal Declaration of Human Rights was appended to the Constitution and given legal force. International and regional human rights treaties ratified by Peru, such as the International Covenant on Civil and Political Rights, ratified in 1978, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified in 1988, and the American Convention on Human Rights, ratified in 1978, were granted the status of constitutional law by Article 105 of the Constitution.

Principles relating to human rights enshrined in the Constitution have found concrete expression in legislation and decrees, in presidential, ministerial and other directives, and in official handbooks outlining criminal and judicial procedures. However, human rights have not been respected in practice.

In 1983, following the emergence of a pattern of widespread "disappearances" and extrajudicial executions, former President Belaúnde Terry rejected reports by Amnesty International that human rights were being extensively violated in Peru. The President claimed the reports were biased. Subsequently the Public Ministry and the Prime Minister, in the face of persistent reports of gross violations in the emergency zones, stated that the allegations were to be investigated. However, reports of "disappearances" and extrajudicial executions continued to be filed up to the end of President Belaúnde Terry's administration.

In July 1985 former President Alan García, in a public reference to his incoming government's counter-insurgency policies, stated that "the law will ... be applied with severity to those who violate or have violated human rights through death, extrajudicial executions, torture and abuse of their duties." However, extensive human rights violations continued throughout the military-controlled emergency zones and, from 1988 onwards, beyond them. The pattern was sustained despite Public Ministry and congressional inquiries which found conclusive evidence of extensive "disappearances" and summary executions by the armed forces.

In his inaugural speech in July 1990, President Fujimori made specific reference to the implementation of a broad human rights policy. The President stated: "The unrestricted respect and promotion of human

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rights will be a firm line of action by my government ... [T]errorist violence... cannot justify, in any way, the occasional or systematic violation of human rights. The counter-insurgency policy which my government is to launch will be conducted within the principles enshrined in the Constitution and laws of Peru."

On 5 April 1992 President Fujimori announced the closure of Congress, the suspension of constitutional rule and the setting up of an emergency government. The following day the Armed Forces Joint Command issued a communique fully supporting the measures announced by the President. Many political analysts in Peru and abroad reacted to the measures announced by the President, and the support given to them by the armed forces, as an indication that Peru was to be ruled unofficially by a combined civilian-military government.

Statements in favour of a full respect of human rights have been publicly expressed by President Fujimori on several occasions, including before the 22nd regular session of the General Assembly of the Organization of American States held in Nassau, Bahamas, in June 1992. Representatives of his government have expressed similar sentiments, both in Peru and before international government organizations. The Government has also acknowledged that human rights violations have occurred in Peru since President Fujimori assumed power in July 1990. The President and other authorities have repeatedly claimed that these violations were neither systematic nor the consequence of Government policy. Instead the Government has repeatedly claimed that they are the consequence of occasional "excesses" by members of the security forces.

Amnesty International believes that the thousands of cases of "disappearance" and extrajudicial execution documented since 1983; the failure of three governments, including the present government, to stop these violations and to fully investigate the vast majority of these cases; and the impunity enjoyed by the perpetrators, represent a systematic violation of human rights in Peru.

## 2.The Government of Peru and human rights after the suspension of constitutional rule

### 2.1The suspension of constitutional rule and its aftermath

On 6 April 1992, in the wake of President Fujimori publicly announcing that he had dissolved Congress and suspended constitutional rule, the Government issued Decree Law N° 25,418. The decree set out the aims of the newly created, *Gobierno de Emergencia y Reconstrucción Nacional*, Government of Emergency and National Reconstruction. Among the aims stated were a reform of the Constitution and the administration of justice and institutions linked to it, including the overall reform of the judiciary, the Tribunal of Constitutional Guarantees, the Supreme Council of Justice and the Public Ministry. The decree established that the country was to be ruled by the executive through decree laws issued by the President and approved by majority vote of the Council of Ministers.

The decree also stated that "the Government ... ratifies and respects the treaties, covenants, pacts, agreements, contracts and other prevailing international obligations subscribed to by the state of Peru". The international and regional treaties on human rights ratified by Peru include the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR), both ratified by Peru in 1978, and the United Nations Convention against Torture and Other  
Amnesty International May 1993AI Index: AMR 46/13/93

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Cruel, Inhuman or Degrading Treatment or Punishment, ratified in 1988.

The suspension of constitutional rule immediately put in further jeopardy the protection of human rights in Peru. For instance, the dissolution of Congress effectively put an official stop to the work of parliamentary commissions, including commissions with a human rights brief. Among the commissions so affected were the Justice and Human Rights Commissions of the Chamber of Deputies and of the Senate, and Special Commissions of Investigation charged with conducting inquiries into particular cases of gross human rights violations. These latter Commissions, with a mandate to inquire into several cases of alleged human rights violations, were in the process of compiling evidence and, in some cases, were about to publish their findings, when Congress was dissolved. The evidence, data and documents these Commissions had at their disposal were subsequently removed by the authorities under the emergency government. When the congressional buildings were eventually reopened in December 1992 the files pertaining to the cases under investigation were reported to have been found missing. The emergency measures taken by President Fujimori also halted the process initiated by Congress designed to repeal or modify counter-insurgency legislation issued by the executive in November 1991, and which critics claimed "militarized" Peruvian society. Congress had been attempting to strengthen the participation of civil society in the development of a new counter-insurgency strategy.

Also on 6 April 1992 the Government of Emergency and National Reconstruction issued a decree immediately suspending, for ten working days, all civilian courts and the Public Ministry in Lima. The Palace of Justice, which houses the Supreme Court, other courts and the Public Ministry headquarters were all placed under the control of armed troops and police. Human rights defenders and jurists reported that virtually the entire judicial system was brought to a halt and the right to *habeas corpus* had been suspended in practice. Amnesty International learned, in the days following 5 April 1992, of several attempts to submit writs of *habeas corpus* before the courts. However, security forces prohibited entry into court buildings and officials refused to receive the petitioners. In practice the judiciary and the Public Ministry remained virtually at a complete standstill for a period of four weeks. This meant victims and their families and lawyers were prevented from having their complaints heard.

In April 1992 the Government issued a decree which removed from office all the members of the Tribunal of Constitutional Guarantees, 13 judges attached to the Supreme Court of Justice, and all the members of the Supreme Council of Justice and the District Councils of Justice. Further decrees removed from office the Public Ministry's Attorney General and some 120 judges and public prosecutors in the judicial districts of Lima and Callao. The President and his Council of Ministers subsequently nominated judges and prosecutors to many of the vacant posts. Amnesty International believes the independence of the judiciary and of the Public Ministry were seriously eroded as a result of the Government of Emergency and National Reconstruction nominating judges to the Supreme Court and other tribunals, and naming a new Attorney General to head the Public Ministry.

One serious short-term consequence of the measures taken by President Fujimori in April 1992 was the suspension of the financial and technical assistance granted in January 1992 to the Government by the United Nations Latin American Institute for Crime Prevention and Treatment and the Government of the United States of America, to set up a computerized *Registro Nacional de Detenidos del Perú*, Peruvian National Register of Detainees, administered by the Public Ministry. The aim of the Register was to produce a rapidly updated record of all detentions by the police and the armed forces throughout the country, and thereby contribute to reducing, and eventually stopping, "disappearances". According to

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reports the assistance was resumed in May 1992, but this meant that the 12-month programme designed to put the Register into operation was delayed. Amnesty International was informed by independent sources in March 1993 that the Register had come into operation, although the exact date when it came into service was not clear. However, human rights organizations reported that the armed forces in some regions of Peru were failing to supply the information necessary for the updating of the Register. For instance, according to reports, between October and December 1992 the *Frente de Ucayali*, the military front responsible for the Ucayali region, apparently failed to forward data relevant to the Register.

On 6 May 1992 the police and army initiated an operation designed to recover control over two wings in Castro Castro Prison in Lima and which housed some 530 male and female inmates linked to the PCP. By the end of the operation, which lasted four days, two policemen and some 40 inmates had been killed. The Government publicly stated that 39 PCP inmates had been killed as a result of an armed confrontation or were deliberately killed by fellow inmates to prevent them from surrendering. Independent human rights organizations claimed, on the basis of information contained in the registers of the *Morgue Central de Lima*, Lima Central Morgue, that 42 inmates had been killed. Surviving PCP inmates subsequently claimed that at least 10 of the victims were deliberately killed after surrendering to the police. Attempts by the International Committee of the Red Cross (ICRC), the Inter-American Commission of Human Rights, and the *Coordinadora Nacional de Derechos Humanos*, to act as intermediaries between the government forces and the inmates during the siege, were apparently rejected by the authorities on the grounds that the safety of representatives of these organizations could not be guaranteed. By the end of April 1993 the Government was not known to have ordered a full and independent inquiry into the precise circumstances, manner and cause of death of those inmates who were killed during the operation.

Between May and November 1992 President Fujimori and his Council of Ministers issued 11 anti-terrorism decrees as part of the emergency government's new counter-insurgency measures (see below, section 2.2). In the first of these decrees, which came into effect on 7 May 1992, the Government repealed a law originally passed on 26 April 1991 which, for the first time ever in the legal history of Peru, explicitly criminalized enforced disappearances. Two months later the Government reintroduced the law in a slightly modified form through a decree which came into effect on 2 July 1992.

Peter Cárdenas Schulte, second in command of the MRTA, and Víctor Polay Campos, its leader, were arrested in May and June 1992 respectively. The following September PCP leader Abimael Guzmán Reynoso and members of the organization's central committee were arrested and charged with treason; scores of other PCP activists were detained in the following months. President Fujimori stated repeatedly that he favoured the death penalty for those convicted of treason and announced that the Government would be renouncing its obligations not to extend the death penalty under the American Convention on Human Rights. Article 4.2 of the Convention expressly prohibits capital punishment to be extended to crimes to which it does not presently apply, and Article 4.4 prohibits it from being inflicted for political offences or related common crimes. In December Amnesty International was told by a representative of the Ministry of Foreign Relations that the Government had decided not to renounce its death penalty obligations under the Convention. However, the representative added that the Government would still be looking into ways by which the death penalty could be introduced (see below, page 15).

From mid-September 1992 onwards, for a period of almost six months, ICRC representatives were unable to carry out visits to places of detention run by the Ministry of Justice, due to differences between the Government and the ICRC over visiting procedures. These visits were resumed in March 1993 (see

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below, page 16).

## 2.2 The new anti-terrorism decrees

The decree laws issued by President Fujimori and his Council of Ministers following the suspension of constitutional rule included wide-ranging anti-terrorism decrees. These decrees widened the definition of terrorism-related crimes, granted the police virtually unlimited pre-trial powers, accelerated trial procedures, and significantly lengthened the terms of imprisonment for those convicted.

Amnesty International believes that the decrees contain a number of elements which, viewed individually and as a whole, make it impossible for defendants accused of terrorism-related offences to be tried under procedures which adhere to fair trial standards enshrined in international treaties to which Peru is party. The organization also believes that the new legislation lays the foundations for the unjustified arrest, conviction and prolonged imprisonment of prisoners of conscience. Indeed, the organization has already documented cases in which prisoners of conscience have been falsely charged with offences under the new decrees (see below, section 3.5).

### 2.2.1 The redefinition of "crimes of terrorism"

On 6 May 1992 the Government issued Decree Law N° 25,475. This decree was the first of a set of new anti-terrorism decrees issued during President Fujimori's emergency government. The basic judicial definition of "crimes of terrorism" now in use in Peru is contained in Article 2 of this decree. Article 2 states:

"[The person] who provokes, creates or maintains a state of uncertainty, alarm or fear among the population, or part of it; [who] carries out acts against the life, physical integrity, health, freedom and security of individuals, or against private and public property, the security of public buildings, means of communication, electricity generating plants and pylons, or any other property or service; [and who does so] through the use of weapons, or explosive devices or substances, or any other means which cause damage or a serious disturbance of the peace, or [which] affect international relations or the security of civil society and of the state, will be sentenced to imprisonment for not less than 20 years." (Unofficial translation).

Articles 3 through to 8 of the decree identify a range of specific acts as "crimes of terrorism". Article 6 refers to persons who, "by whatever means", incite the commission of terrorism-related crimes. Article 7 refers to the crime of "apology for terrorism", an act in which the perpetrator, again "by whatever means", is seen to favour or excuse such crimes. Article 8 makes reference to persons who, "by whatever means," obstruct the investigation of "crimes of terrorism" and judicial procedures associated with them.

On 27 June 1992 the emergency government issued Decree Law N° 25,564, by which the age of criminal responsibility for "crimes of terrorism" was reduced from 18 to 15 years.

On 7 August 1992 President Fujimori's emergency government issued Decree Law N° 25,659. The decree defined the crime of treason, within the anti-terrorism terms set out in Article 2 of Decree Law N° 25,475, but linked the crime to the means employed and their effects on property and life. In addition, those accused of being members of an armed opposition group, whether in their capacity as leaders or by engaging in operations designed to attack and kill, and anyone who aids and abets the commission of

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"crimes of terrorism", may be charged with treason under its provisions. The decree also made provision for cases of treason to be transferred into the jurisdiction of the military justice system. The punishment specified for those convicted of treason by military courts is life imprisonment.

On 18 November 1992 the government issued Decree Law N° 25,880. This decree made provision for teachers and professors suspected of influencing their pupils by favouring armed opposition groups to be charged with treason and tried by a military court. Those found guilty of treason under this decree may also be sentenced to life imprisonment.

Decree Laws N° 25,475 and 25,569 are the basic decrees which regulate the procedures by which the police and courts handle terrorism-related cases. Other decrees issued during the emergency government added to or modified the procedures outlined in these two decrees. Certain prohibitions outlined in the decrees apply at any time during the police investigation and trial stages. These include prohibiting: police and judges from granting any form of conditional liberty; lawyers chosen by defendants from simultaneously representing other defendants in terrorism-related cases; anyone from filing a petition for *habeas corpus* and *amparo* in favour of the accused; police and military personnel involved in the detention and questioning of the accused from appearing as witnesses; and defendants and/or their lawyers from challenging, for whatever reason, the impartiality of the judges.

#### 2.2.2 Police procedures for "crimes of terrorism"

Decree Law N° 25,475 makes provision for the *Policía Nacional del Perú*, PNP, National Police of Peru, to hold suspects for a period of up to 15 days, due notification having been given within 24 hours of the detention to a representative of the Public Ministry and a judge. However, the detainee may be held in total incommunicado detention for the 15 days, should the police decide it necessary for the effective completion of their investigations. Such a decision does not rest with a judge; the judge, in conjunction with the Public Ministry representative, need only be informed of the decision. The decree prohibits the detainee having access to a lawyer until such time as the police determine that the accused is to make a declaration before a representative of the Public Ministry. Amnesty International believes that these restrictions seriously undermine the rights of the detainee by failing to make provision for all detainees to have prompt access to a lawyer, and by failing to specify that a Public Ministry representative be present while the suspect is being questioned. Safeguards designed to protect the detainee are seriously undermined. In particular the restrictions render ineffective the Public Ministry's role of protecting the detainee from abuses, including from being tortured or ill-treated.

Decree Law N° 25,744, published on 27 September 1992, charges the *Dirección Nacional Contra el Terrorismo*, DINCOTE, the anti-terrorism branch of the police force, with the task of "preventing, investigating, denouncing and combating" terrorism-related crimes. The decree modifies police procedures for cases in which the detainee is suspected of treason. In such cases the police need only inform the military justice system of the detention. Furthermore, this decree, by failing to specify a maximum period of detention, allows the police, in theory, to detain the suspect indefinitely, including in total incommunicado detention.

Once the police have completed their investigations and formalized charges, the accused are referred formally into the jurisdiction of the courts. In practice, all defendants awaiting trial are held in prison custody. Decree Law N° 25,824 modified the Code of Criminal Procedure with respect to the periods

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allowed for the detention of persons accused of terrorism-related crimes and awaiting trial. The decree allows for the authorities to extend the period -- normally 15 months for cases subject to special procedures -- to 30 months for terrorism-related cases "of a complicated nature" in which more than ten people are accused, or a similar number of people were made victims of criminal actions by the accused. Moreover, in cases which prove "especially difficult" or require a "special extension of the investigation" the period of pre-trial imprisonment may be extended to 5 years.

### 2.2.3 Judicial procedures for "crimes of terrorism"

Decree Law N° 25,475 sets out the procedures by which the accused are to be tried. Initially, prior to military tribunals being decreed for trying civilians accused of the terrorism-related crime of treason, these procedures referred only to civilian courts. Subsequently, the procedures were also applied to military courts.

The procedures for civilian tribunals encompass three successive stages: first, a *juzgado de instrucción*, lower court, presided over by an examining judge; second, a *Corte Superior*, high court, where the accused is tried and sentenced; and third, an appeal stage. The maximum periods allowed for each of these stages is 30 consecutive days (extendable by a further 20 days) in the lower court; 15 consecutive days in the high court; and 15 days in the appeal court.

The decree prohibits the *juez de instrucción*, examining judge, on any grounds, from closing a case; instead, the decree states that any contentious issues surrounding a case must be resolved by the *Corte Superior*. This means that lower court judges, who in most common-crime cases may order a case closed and the accused unconditionally freed for lack of evidence or other reasons, may not take such a decision in terrorism-related cases.

Decree Law N° 25,475 made provision for the identity of the prosecutors, judges and other officials involved in hearings in which the accused is tried and sentenced, or in appeal hearings, to remain secret. Cases taken before civilian courts are heard *in camera*, in specially furnished court rooms inside prisons.

According to Decree Law N° 25,659, treason cases under the jurisdiction of military courts are subject to procedures and conditions laid out for civilian cases. However, the decree significantly shortened the period in which treason trials may be heard, since the period allowed may be reduced by up to two-thirds. This means that the examination and trial stages, which in the military system of justice are heard before a single tribunal, and the appeal stage, which is heard before the *Sala del Consejo de Guerra*, Council of War Tribunal, may be reduced to ten and five days respectively. Decree Law N° 25,708, issued on 12 September 1992, restricted even further the time allowed for treason cases heard before military tribunals. This decree states that military courts must arrive at a verdict **within** ten consecutive days. Furthermore, the decree states that a *recurso de nulidad*, petition of nullity, before the Supreme Court of Military Justice, whereby the defendant may seek to have his conviction and sentence quashed, may only be allowed in cases where the defendant has been condemned to 30 years or more of imprisonment. As in civilian courts, the identity of prosecutors, judges and other court officials involved in the sentencing and appeal stages of military trials are kept secret, and all trials and appeals are heard in closed hearings.

The prison terms specified by the new anti-terrorism legislation are set out in Decree laws N° 25,475, 25,659 and 25,880 . Defendants convicted of "crimes of terrorism" face sentences ranging from six years

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to life imprisonment, depending on the type of crime for which they were found guilty. In specifying the terms of imprisonment for crimes defined by Articles 2, 3(b) and (c), 4, 5 and 9 of Decree Law N° 25,475, the decree states that the accused will be imprisoned "at least for" the period specified. The decree fails in those articles to specify the maximum sentence which may be imposed on those found guilty.

### 2.3 Amnesty International's concerns about the new anti-terrorism decrees

On 22 February 1993 Dr Oscar de la Puente Raygada, president of the Council of Ministers and Minister for Foreign Relations, stated before the 49th session of the United Nations Commission on Human Rights that "[t]he Government of Peru ... will invariably maintain its position of submitting those accused of crimes of terrorism to fair trials with all the guarantees provided for by law".

However, Amnesty International believes that many of the specific measures outlined above fall short of international human rights standards. The standards underpinning fair trial enshrined in the Universal Declaration of Human Rights, which the Government of Peru incorporated and gave legal force to in the 1979 Constitution, and similar standards enshrined in the International Covenant on Civil and Political Rights, ratified by Peru in 1978, are contravened both in spirit and in practice by many of the provisions contained in the new anti-terrorism legislation. Indeed, the organization believes that when the decrees are viewed as a whole, their practical effect is to render all terrorism-related trials as unfair.

The organization also believes that the measures provide a judicial framework within which human rights could be further eroded in Peru. In Amnesty International's opinion, the terms by which "crimes of terrorism" are defined in Decree Laws N° 25,475, 25,569 and 25,880, lack precision. The description of acts constituting "crimes of terrorism" in these decrees are sufficiently wide and imprecise to allow for the detention of individuals critical of the political, social and economic system in Peru; of the Government, security forces and other authorities; and of the new measures to control the armed opposition. Indeed, since the new anti-terrorism laws came into effect, journalists, human rights defenders, lawyers, political activists and other critics with no links to the armed opposition in Peru, have been detained and charged with terrorism-related offences. Independent human rights organizations in Peru have claimed that since May 1992 at least 100 people arrested under such decrees have been falsely charged. A dozen of these were released after months in prison; the majority remained in prison awaiting trial; and others were convicted and sentenced, in some cases to life imprisonment. Amnesty International believes that many of these people are prisoners of conscience or possible prisoners of conscience.

Amnesty International is concerned about the increasing difficulties experienced by prisoners accused of "crimes of terrorism" in being able to freely choose lawyers to defend them. The organization believes that the prohibition placed on independent lawyers from simultaneously representing more than one client facing terrorism charges severely restricts the choice of the defendant. In addition, Amnesty International has been told that lawyers are increasingly reluctant to take on terrorism-related cases because they are accused of sympathizing with the armed opposition and run the risk of themselves being arrested and charged with "apology for crime" or other offences under the new legislation. The *Asociación de*

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*Abogados Democráticos*, Association of Democratic Lawyers, an organization of lawyers which seek to represent members of the PCP have, in particular, been targeted by the authorities. The authorities claim that the Association is part of the PCP itself, and that its members participate in the PCP's criminal activities.

Amnesty International is further concerned that military tribunals hearing cases of civilians charged with terrorism-related offences are not competent, independent and impartial. Military judges in Peru are not known to receive formal and accredited legal training which allows them to hear civilian cases. Furthermore, Peruvian and international jurists have commented that in cases where the military bring to trial civilians for insurgency-related offences, the military inevitably become both accuser and judge. This dual role presents serious problems as far as the independence and impartiality of the military justice system is concerned.

Amnesty International has concluded that the following features of the new anti-terrorism legislation, viewed singly and as a whole, conspire to undermine international fair trial standards:

- the virtually unlimited powers granted to the police in questioning suspects and formalizing charges;
- the limitations placed on access to the accused by representatives of the Public Ministry and independent lawyers during the police investigation stage;
- the inordinately lengthy periods which the accused may be held in detention while awaiting trial;
- the limitations imposed on civilian examining judges, including that such judges have no choice other than to refer cases for judgement and sentence to a higher court;
- the prohibition imposed on police and military personnel involved in the detention and questioning of the accused from appearing as witnesses;
- the impossibility of granting the accused any form of bail or conditional liberty at any time;
- the impossibility of anyone petitioning for *habeas corpus* and *amparo* in favour of the accused at any time during the police investigation and trial stages;
- the lack of competence, independence and impartiality of military tribunals;
- the peremptory periods allowed for conviction, sentencing and appeal;
- the prohibition imposed on the lawyer chosen by the defendant to simultaneously represent other defendants in terrorism-related cases;
- the fact that trials, both in civilian and military courts, are held in secret;
- the fact that the accused may be tried, convicted and sentenced *in absentia*.

Amnesty International believes the government should order an immediate review of the police and trial procedures contained in the new anti-terrorism legislation, with a view to bringing the procedures into line with those set out in international human rights treaties.

Amnesty International is also seriously concerned that the new anti-terrorism procedures, with all their shortcomings in relation to international fair trial standards, could be used as a judicial stepping stone leading to the application of the death penalty. Since September 1992 President Fujimori and members of his government have stated publicly on several occasions that they are seeking ways to ensure that the death penalty is extended to include certain terrorism-related crimes. The government has also indicated that it would be looking into ways by which legislation could be passed which would allow leaders of the armed opposition already in prison to be tried on new charges of treason for crimes committed by their organizations **after** they were imprisoned. Should the legislature pass any one of the death penalty bills presently before Congress, it would include prisoners convicted of the terrorism-related crime of treason.

## 2.4 Human rights since the reopening of Congress

In November 1992 elections were held which resulted in the establishment of the *Congreso Constituyente Democrático*, CCD, Democratic Constituent Congress. Two major opposition parties refused to participate in the elections. A majority of the seats in the new Congress were won by members of the political party *Nueva Mayoría-Cambio 90*, New Majority-Change 90, backed by President Fujimori. The new 80-member single chamber Congress, formally inaugurated on 30 December 1992, replaced the two-chamber Congress closed by the President and his Council of Ministers the previous April. The CCD was charged with drafting a new Constitution and carrying out those legislative functions established in the 1979 Constitution. Around the time the CCD was formally opened four bills were tabled before the CCD which made provision for the death penalty for the terrorism-related crime of treason. By the end of April 1993 none of these bills had yet been debated or voted on.

On 5 January 1993 the CCD approved a law validating the 1979 Constitution and confirming President Fujimori as the Constitutional President of the Republic. The law also stated that the decree laws issued by the President and his Council of Ministers between 6 April and 30 December 1992, including all the new anti-terrorism decrees, would remain in effect until such time as they are revised or revoked by Congress. The CCD, through its *Comisión de Constitución*, Constitution Commission, began to draft a new Constitution in January 1993. The Commission is expected to submit its draft for approval by Congress in July 1993, prior to it being submitted for final approval by a national referendum.

The new Congress also established a *Comisión de Derechos Humanos*, Human Rights Commission. On 2 April 1993 the president of this Commission was reported in the newspaper *La República* to have stated before Congress that his Commission has 205 outstanding human rights violation cases to investigate. The report did not make clear whether these consisted solely of violations which occurred after Congress was closed in April 1992, or whether the Commission had also inherited cases being investigated by similar commissions under the previous parliament.

In February 1993 the Government of Peru, in the context of claims to have re-established constitutional rule, sought to renegotiate agreements with the Government of the United States of America (USA) regarding economic aid to Peru. However, following publication of the USA's State Department 1992 report on human rights in Peru, the Government of the USA expressed concern about Peru's eligibility to receive economic aid given the country's poor human rights record. The reaction within Peru was to highlight a public debate about the issue of human rights violations by the security forces, the role of independent human rights organization in Peru in disseminating internationally information about such violations, and the Government's success or otherwise in securing foreign economic aid.

On 23 February 1993, again in the context of the debate about human rights and economic aid to Peru, the newly-elected CCD approved a motion which stated that the Peruvian state does not have a policy of systematically violating human rights. The CCD also stated that it was committed to the investigation of past and future human rights violations, and expressed a hope that the judicial authorities would sanction the perpetrators. The CCD, however, did not give any indication of the practical steps and terms of reference required to conduct a full investigation into the thousands of cases of "disappearance", extrajudicial execution and torture documented by the authorities since 1983.

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The Government of Peru in March 1993 renewed agreements with the International Committee of the Red Cross, ICRC, allowing the ICRC to have access to all prisons administered by the Ministry of Justice, and which had been suspended in September 1992. Also in March, the Government announced that it was to set up a high level human rights commission and that the independent *Coordinadora Nacional de Derechos Humanos*, CNDDHH, would be invited to hold monthly meetings with such a commission. On 18 March 1993 the Minister of Justice wrote to the CNDDHH inviting it to participate in the monthly meetings. The first of these meetings took place on 20 April 1993. Present at the meeting for the government were: the Minister of Justice, who presides the commission; the President of the Supreme Court of Justice; the Public Ministry's Attorney General; the Minister of the Interior; the President of the State Defence Committee; and representatives from the Ministry of Foreign Relations. At the meeting the CNDDHH presented the Government with a document in which it called for a dialogue with the authorities designed to bring about "the definitive eradication of human rights violations [in Peru]".

Following the release on 4 March 1993 of 11 peasant leaders from the department of Cajamarca who were falsely charged with terrorism-related crimes, Jaime Yoshiyama, president of the CCD, told journalists that the new anti-terrorism legislation had made it possible for people to be arbitrarily detained by the security forces and that therefore the legislation should be changed. He added that proposals from non-governmental organizations for reform of the legislation had been sent to Congress. By the end of April the proposals were not known to have been brought together in a draft bill.

Six prisoners, alleged members of the PCP, were reported to have been found dead on a hill by the police after they had escaped from Quencoro Prison, near the city of Cuzco, on 28 March 1993. According to reports at least 30 prisoners escaped following an attack by members of the PCP using explosives on the perimeter wall of the prison. In the wake of the attack the army and the police initiated an operation designed to recapture the fugitive prisoners. Reports indicated that four of the prisoners and a policeman died in an armed confrontation at the prison; others were recaptured soon after the break-out; and still others managed to escape on foot or in vehicles. A television channel reported that the police claimed six of the escaped prisoners were found dead on a hill in the district of San Gerónimo, with bullet wounds in the head. The circumstances, manner and cause of death of the six prisoners were not clear. The police attributed the killings to fellow inmates who shot the prisoners when they realized they were unable to continue their escape because of wounds. However, Amnesty International has received reports indicating that there were serious doubts about this explanation. Amnesty International does not know whether the authorities have ordered an independent and thorough investigation into the killings.

On 2 April 1993 the CCD voted to set up a *Comisión Especial Investigadora*, Special Commission of Inquiry, to investigate allegations that members of the army had abducted and killed a lecturer and nine students attached to the *Universidad Nacional de Educación Enrique Guzmán y Valle*, National University of Education Enrique Guzmán y Valle (also known as La Cantuta University). The lecturer's and students' "disappearance" had been denounced to the authorities in July 1992 (see below, page 18).

On 20 April 1993 Commander General Nicolás de Bari Hermoza Ríos appeared before the congressional Special Commission of Inquiry set up to investigate the fate of the lecturer and students. Following his appearance before the Commission, General Hermoza gave a press conference. According to press reports, General Hermoza was reported to have said of the opposition members of Congress linked to the inquiry that they "appear to be colluding with terrorism ... they have launched a campaign to discredit and insult the Peruvian army" and added that "I am not going to tolerate that". President Alberto Fujimori was

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reported to have stated in the city of Cuzco, while on an official visit, that he backed the statements made by General Hermoza. However, on his return to Lima, in a televised address, President Fujimori, in an apparent admonition of army commanders for their harsh language used against opposition parliamentarians, was reported as saying that he guaranteed the new Congress' autonomy and right to investigate other branches of government.

In a communique issued by 15 Peruvian army division and brigade generals on 21 April 1993, the generals also expressed their complete support for the statements made by General Hermoza. The communique prefaced a public show of military force by the army on 21 and 22 April in which dozens of tanks were reported to have been deployed at strategic sites around Lima, the capital, and hundreds of officers and troops showed up at Lima's main military base to show their support for General Hermoza.

Journalists, foreign diplomats and other commentators described the statements made by General Hermoza and other generals, and the show of force, as an attempt to intimidate members of Congress opposed to the Government, including those involved in the congressional inquiry. Some commentators went as far as to say that General Hermoza's statements, and the ensuing communique and show of force by the army, did not bode well for Peruvian human rights and Peru's attempts to return to democracy. An independent human rights organization concluded that "these serious events ... demonstrate the decision of the armed forces, in particular the Peruvian army, to prevent, from now on, complaints and investigations being carried out into human rights violations". The organization added: "this situation leads to a fear for the integrity of the opposition members of Congress, the press and other persons and institutions, among them human rights organizations, who denounced the La Cantuta University case and many other [past] human rights violations perpetrated by the security forces".

### 3. Human rights violations after the suspension of constitutional rule

#### 3.1 "Disappearances"

"Disappearances" are difficult to quantify with complete accuracy. Amnesty International has continued to receive reports from independent human rights organizations that residents in isolated rural areas with a high level of armed conflict, such as in the departments of San Martín, Huánuco, Ayacucho and Junín, are reluctant to denounce alleged "disappearances" before the authorities and independent human rights organizations, for fear of reprisals from the security forces.

During the 13 months April 1992 through to the end of April 1993 Amnesty International received information on 209 "disappearances" following detention by the security forces, although the true figure may be far higher. By the end of this period the fate of 139 of these victims remained unknown; 28 were subsequently found dead; 42 were freed or were acknowledged to be in custody; and one said he had escaped from custody. (See Appendix 2, Table 1, for the total number of people documented by Amnesty International as "disappeared" since the government of President Fujimori assumed power in July 1990). The Public Ministry is reported to have unofficially stated that it had documented 246 unresolved cases of "disappearance" during 1992. The *Coordinadora Nacional de Derechos Humanos* documented 286

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"disappearances" for the same year, of which 178 remained unclarified. These violations are testimony to the grave human rights situation which continues to afflict Peru.

One of the regions with the highest number of reported "disappearances" during the 13 months April 1992 through April 1993 was the Alto Huallaga, which includes the departments of Huánuco and San Martín. The government of President Fujimori has declared the region one of the main areas in the fight against drug trafficking and the armed opposition. During 1992 this area was reported to be among the regions with the highest number of political killings in Peru. Amnesty International has received reports of 145 "disappearances" and 35 extrajudicial executions in these two departments since President Fujimori's administration assumed power in July 1990, of which 43 "disappearances" and four extrajudicial executions were documented for the 12-month period April 1992 through April 1993.

Between April and July 1992 Amnesty International documented at least **23 "disappearances"** in the department of San Martín, in the Alto Huallaga region. The majority of these violations were reported to have been carried out by soldiers stationed at the Mariscal Cáceres military base in the town of Tarapoto. The "disappearances" were reported to have taken place in the provinces of Lamas, San Martín, Bellavista and Tocache. Many of the abductions were witnessed by relatives and friends. Formal denunciations were made to Public Ministry provincial prosecutors in 22 of the cases. Representatives of the Public Ministry seeking to inquire as to the whereabouts of the "disappeared" were reported to have been intimidated and obstructed by the military. In the face of such intimidation and obstruction, the representatives of the Public Ministry seeking to investigate these "disappearances" requested the *Fiscalía de la Nación*, Office of the Attorney General, that they may carry out their investigations in safety and without restrictions. On 22 July 1992 the Ministry of Defence wrote to an independent human rights organization based in Lima, which is looking into these "disappearances", stating that the military authorities were investigating the allegations. As far as Amnesty International is aware no report arising from this investigation had been made public by the end of April 1993.

On the night of 18 July 1992 members of the army reportedly abducted lecturer **Hugo Muñoz Sánchez** and **nine students** from the *Universidad Nacional de Educación Enrique Guzmán y Valle*, a university located on the outskirts of Lima. The college is also known as La Cantuta University. According to a denunciation filed with the Public Ministry, the soldiers entered the students' campus residence, forced all the occupants to leave the dormitories and ordered them to lie on the floor. The soldiers then identified nine of the students and forcibly took them away. Around the same time a group of hooded men entered the campus home of lecturer Hugo Muñoz and abducted him. In a written denunciation to a Public Ministry provincial attorney, dated 21 July 1992, the wife of Hugo Muñoz stated that her husband was taken away gagged. Three days later a *habeas corpus* petition was filed on behalf of the ten "disappeared" persons. The writ was not upheld by a judge on the grounds that the military authorities claimed the lecturer and students were not being held by the military. The rector of the University wrote to the Public Ministry indicating that the abductions took place at a time when a military detachment was based on the campus. In Peru, following the promulgation of a decree in November 1991 which made provision for members of the security to enter state universities, some universities have had army detachments based on their premises.

In October 1992 the Government of Peru, through its Permanent Mission in Geneva, Switzerland, transmitted to the United Nations Centre for Human Rights information it had received from the Ministry of Defence to the effect that an investigation had been carried out into the above allegations, and which

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concluded that the lecturer and students had not been detained by members of the army. However, in a statement made on 2 April 1993 before the Peruvian Congress, Henry Pease, a member of Congress, claimed that he had documents in his possession which indicated that the victims had been abducted and killed by members of the army. Congressman Pease also claimed to be in possession of documents that included the names of the army officers that ordered, took part in, and were in full knowledge of, the operation leading to the alleged killings. Congress immediately approved a motion to set up a special commission to investigate the incidents. The commission was reported to have 30 days in which to produce the report.

According to a report in the official Peruvian newspaper *El Peruano*, the *Consejo Supremo de Justicia Militar*, Supreme Council of Military Justice, opened pre-trial proceedings on 16 April 1993 "against army officers and troops who prove to be responsible for the disappearance of [the victims]". Given the poor record of the military justice system in dealing with human rights violations by the security forces, the organization believes the decision to have the allegations heard by such a tribunal is conducive to perpetuating the sense of impunity enjoyed by the Peruvian armed forces. Amnesty International also believes that should this be the outcome, the full facts behind the alleged "disappearance" and summary killing of the lecturer and students may never be made public.

Two days later, on 18 April 1993, the Peruvian daily newspaper *Diario Uno* published in full a document which, according to the document, was written by "members of the military organization León Dormido who identify themselves with a respect for human rights and of whom some were eye-witnesses to [the] events". The document gives a detailed account of the military operation which resulted in the abduction and killing of the lecturer and students, the burial of the bodies, and their subsequent exhumation on 19 July 1992. *Diario Uno* claimed the document lacked a letterhead, stamp and signatures, but added that the information and seriousness of the allegations in it merited a full investigation by the Special Commission of Inquiry set up by Congress a fortnight earlier.

On 20 April 1993 Commander General Nicolás de Bari Hermoza Ríos appeared before the congressional Special Commission of Inquiry set up to investigate the fate of the lecturer and students. *Diario Uno* reported Roger Cáceres Velásquez, member of Congress and president of the Special Commission of Inquiry, as saying that General Hermoza had told the inquiry that at no time had there ever been authorization or orders given by the high command of the army to carry out the incursion into La Cantuta University. Congressman Cáceres added that the General had told the Commission he had not ruled out that the students and lecturer had been abducted by third parties, possibly paramilitary elements. The member of Congress also reported that General Hermoza had claimed the document said to have been authored by officers belonging to the organization León Dormido was "apocryphal and prefabricated".

On 23 April 1993, in an apparent attempt to defuse the tensions created between the armed forces and Congress, the Minister of Defence, General Victor Malca, told the CCD in a speech that the authorities will definitely clear up the case of the "disappeared" people from La Cantuta University and punish those responsible.

**Rony Guerra Blancas** and **Milagros Flor Túpac González**, two students at the *Universidad Nacional del Centro*, National University of Central Peru, were reportedly "disappeared" in February 1993. The two students were apparently abducted in the city of Huancayo, Junín department, by men dressed in plain clothes and believed to be linked to the security forces. According to reports, Rony Guerra was

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abducted in the presence of witnesses on 11 February by three armed men who covered his face with a pullover and drove him away in a taxi to an unknown destination. A neighbour of Rony Guerra apparently claimed that at midnight the same day the detainee was taken to his home by six uniformed men who, after searching the house, drove him away again. Milagros Túpac was reportedly taken away on the 12 February 1993 by some 10 armed men who entered her home in Huancayo. A relative apparently witnessed the incident.

The parents of both victims inquired as to their whereabouts at the *Comandancia de la Policía Nacional del Perú*, the regional headquarters of the National Police of Peru, at the *Jefatura contra el Terrorismo*, the regional headquarters of the anti-terrorist police, and at the 9 de Diciembre army base. The authorities in all three institutions denied having detained the students. *Habeas corpus* petitions were filed before an examining magistrate on behalf of both students and the abduction of Milagros Tupac was denounced to the Public Ministry's *Fiscalía Especial de Defensoría del Pueblo y Derechos Humanos de Huancayo*, Huancayo's Special Attorney for the Defence of the People and Human Rights.

These two "disappearances" follow a spate of similar "disappearances" and extrajudicial executions of students attached to the university in Huancayo. Between April and October 1992 at least 26 students were denounced to the public Ministry as having been abducted in circumstances suggesting the involvement of the security forces. Of these, 22 were later found dead and four remained "disappeared".

### 3.2 Extrajudicial Executions

Extrajudicial executions, like "disappearances", are difficult to quantify, given the high number of deaths reported as occurring in clashes between the security forces and armed opposition groups, and the isolation of the areas in which these confrontations take place. As with "disappearances", the number of extrajudicial executions reported may well not reflect the true total, particularly in the emergency zones. The bodies of the dead are rarely returned to their relatives or released for independent autopsy, thus impeding still further either an accurate estimate of the actual numbers of extrajudicial executions or investigations which might lead to prosecution of those responsible. Journalists, human rights activists and military strategists have called attention to the low numbers of captives, injured or otherwise, that are detained by the security forces following clashes with the clandestine PCP or the MRTA. Most official and media reports of military engagements in the emergency zones specify the numbers killed on either side, but rarely give any indication of captives being taken. Official reports also frequently attribute killings to members of the PCP or the MRTA, though the lack of independent reporting and the fact that these armed groups rarely confirm or deny their responsibility make these statistics, too, difficult to verify.

During the 13 months between 1 April 1992 and 31 April 1993 Amnesty International compiled information of 57 extrajudicial executions. (See Appendix 2, Table 2, for the total number of people documented by Amnesty International as having been extrajudicially executed since the government of President Fujimori assumed power in July 1990). The *Coordinadora Nacional de Derechos Humanos* stated in its annual report for 1992 that it had documented 114 extrajudicial executions during the year. As far as Amnesty International is aware, in the great majority of these cases no investigations have been initiated and the organization knows of none in which the alleged perpetrators have been brought to justice.

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Between August and October 1992 Amnesty International documented the cases of at least **22 university students** in the city of Huancayo, Junín department, who were found dead in circumstances suggesting they were extrajudicially executed. A further four students were reported to have "disappeared" during the same period. All had allegedly been detained in or near the city. Relatives of the majority of students filed complaints against the police and the army with the *Fiscal Especial de Defensoría del Pueblo y Derechos Humanos*, a representative of the Public Ministry with a special responsibility for human rights. In October the Public Ministry's Attorney General appointed the *Fiscal Especial* as *ad hoc* prosecutor to investigate the "disappearances" and the circumstances and manner in which eight of the 22 students had died. By the end of April 1993 the results of the prosecutor's inquiries were not known to have been made public.

According to Father Angel Acuña, a priest and human rights activist based at the *Comisión Arquidiocesana de Acción Social*, Diocesan Commission for Social Action, in Huancayo, the spate of "disappearances" and killings began in the wake of a census carried out by the armed forces in which all students and staff at the *Universidad Nacional del Centro*, National University of Central Peru, were registered and had their photographs taken. Since that date, according to Father Acuña, 30 students were "disappeared". The bullet-ridden bodies of most of them -- Father Acuña claimed there were 24 of them -- were subsequently found in different locations, all bearing signs of torture. In October 1992 Father Acuña received death threats over the telephone from unidentified callers, and in person, from uniformed members of the army who walked into the offices of the Diocesan Commission. The officer who spoke personally to Father Acuña is reported to have told him that he should desist from calling for an inquiry into the "disappearances" and killings, failing which the army could not guarantee his physical safety and the Commission stood to suffer irreparable damages.

Amnesty International documented the cases of at least three people from the department of San Martín who were allegedly extrajudicially executed by members of the armed forces in June 1992. **Erick Rojas Llanca**, a student aged 16, and **Rafael Navarro Pisango**, were reportedly detained on 21 June 1992 by members of the army, in a place called Los Jardines de Tarapoto, in the town of Tarapoto. The detention were said to have taken place in the street in the presence of witnesses. The following day their bodies, bearing signs of torture, were found floating in the river Mayo, near the hamlet of Shapaja. According to reports, on the evening of 22 June 1992 **Ricardo Salazar Ruiz** was detained by an army patrol led by a captain from a military base in the district of San José de Sisa, Lamas province. His body was found two days later in the doorway of his sister's home in San José de Sisa; it was officially recovered by the local *juez de paz*, justice of the peace, and reportedly bore four bullet wounds and signs of torture. The case was denounced to the Public Ministry's provincial prosecutor. These three victims were killed during a period between April and July 1992 in which 26 people were denounced to the authorities as having been abducted and "disappeared" by members of the security forces in different locations within the department of San Martín (see above, page 22).

### 3.3 Torture and ill-treatment

Amnesty International has also continued to receive persistent reports of torture and ill-treatment by members of the Peruvian security forces. During the 13 months up to the end of April 1993 Amnesty International received information on at least 40 cases of alleged torture and ill-treatment, including rape. These figures, however, do not reflect the real level of torture and ill-treatment, any more than the figures for reported "disappearances" and extrajudicial executions can be assumed to represent the full pattern of

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these abuses. Many cases are never reported because the victims fear reprisals, while others, documented only as cases of "disappearance" or extrajudicial execution, include evidence of the victim also having been tortured. Amnesty International knows of only one case, involving two victims who were reported to have died in March 1993 as a result of torture, in which the military justice system has initiated a judicial investigation (see below, page 26).

Systematic beatings, near drowning, electric shocks, hanging by the arms for prolonged periods, and threats of mutilation or death, are the forms of torture most commonly reported. Sexual abuse by soldiers has become common in the emergency zones; there have been many reports of soldiers having tortured women and young girls by raping them, sometimes repeatedly, in peasant communities or when detained in military bases. Many of those subsequently released were threatened with death if they reported their experiences to the authorities.

On the night of 7 June 1992, 14-year-old **Froily Mori Vela** was at her parents' home in the hamlet of La Unión, Nueva Lima district, Bellavista province, San Martín department. According to reports, a group of six soldiers from the Bellavista barracks, led by a lieutenant, entered and searched the Mori Vela household. After the search, Froily Mori was ordered to accompany the soldiers. When she and her parents refused to comply with the order, they were apparently threatened at gunpoint. Froily Mori was then reportedly forced outside into the garden. In a sworn affidavit Froily Mori is reported to have stated: "They took me to the far end of the vegetable garden, where one after another they raped me, starting with the lieutenant". According to reports, in a medical certificate issued on 10 June 1992 from the *Unidad Técnica de Salud de Bellavista*, Bellavista Health Clinic, a forensic doctor who examined her found physical evidence consistent with her allegations.

According to the testimony of **Nancy Luz Pimentel Cuéllar**, a student at the *Universidad de Educación Enrique Guzmán y Valle*, Enrique Guzmán y Valle University of Education, located on the outskirts of Lima, she was subjected to torture by members of the police. Nancy Pimentel was accused of being involved with the PCP. She was apparently detained at her home in the early hours of 10 October 1992 by members of the armed forces who beat her before taking her to the DINCOTE, the national police anti-terrorism unit. Nancy Pimentel stated that she was taken up to the third floor of the DINCOTE by members of the police and made to sit, blindfolded, on a chair. She was told not to move as she was sitting on the edge of a steep drop and was forced to stay in this position all night. The following day she reportedly had electricity applied to her fingertips and head until she fainted. She was then forced to sign a declaration stating that at no time had she been ill-treated. On 2 November 1992 she was driven blindfolded from the DINCOTE and left in Miraflores, a Lima neighbourhood, without her detention having been acknowledged.

**Martha Huatay Ruiz**, a lawyer of the *Asociación de Abogados Democráticos*, Association of Democratic Lawyers, and a member of the PCP, was detained on 17 October 1992. Prior to being sentenced to life imprisonment by a military tribunal, she was reportedly subjected to torture while held at the police headquarters of the DINCOTE. In November 1992, at a general meeting of the *Colegio de Abogados de Lima*, Lima Bar Association, its members voted unanimously to condemn the "proven" police torture to which Martha Huatay was subjected.

Four army officers detained following the coup attempt on 13 November 1992 against President Fujimori's emergency government claimed that they had been tortured while in the custody of the

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*Servicio de Inteligencia Nacional*, SIN, the National Intelligence Service, in Lima. Commander **Marko Antonio Zárate Rotta**, Commander **Enrique Aguilar del Alcázar**, Major **César Cáceres Haro** and retired Major **Salvador Carmona Bernasconi** claimed that they were held in incommunicado detention for at least 10 days during which time they were subjected to torture and forced to sign declarations without having read them. According to the army officers' written testimonies, while held at the headquarters of the SIN, Salvador Carmona had a needle stuck into his left arm and his chest. He was also held face downwards on the floor while somebody sat on him and twisted his arms. Enrique Aguilar and César Cáceres claimed to have been punched in the face. At another unknown location César Cáceres was subjected to further torture, including being hung by his arms for a prolonged period of time. Marko Zárate was reportedly beaten on the back and the stomach and had a gun held to his head while being threatened with death. He was then reportedly tied to a chair while an electric current was applied to his wrists. According to reports, an article was published on 8 January 1993 in a national newspaper containing a letter signed by General Alberto Arciniega, the President (until 23 December 1992) of the *Sala de Guerra del Consejo Supremo de Justicia Militar*, War Tribunal of the Supreme Council of Military Justice, in which he confirmed that the army officers had been tortured. On 25 January 1993 the armed forces issued an official communiqué in which they denied that any of those imprisoned in connection with the attempted coup had been tortured.

In March 1993 the bodies of **Alberto Calipuy Valverde** and **Rosenda Yauri Ramos** were found in an abandoned house in the district of Angasmarca, province of Santiago de Chuco, La Libertad department. According to reports, in an official communiqué issued on 16 March 1993 the military acknowledged that both peasants had been detained at the Anagamarca military base and had died as a result of the ill-treatment they received while in detention. An officer was named as being responsible for the deaths. The communiqué added that the officer had been dismissed from the army and a judicial investigation had been opened into the case by a military court.

### 3.4 Detentions and trials falling short of international standards

In his February 1993 statement before the 49th session of the United Nations Commission on Human Rights, the President of the Council of Ministers and Minister for Foreign Affairs, Dr Oscar de la Puente Raygada, said that by 2 February "over two thousand alleged delinquent terrorists" had been arrested after President Fujimori took the decision to set up an emergency government in April 1992.

According to the statistics issued by the *Procuraduría Pública encargada de los asuntos de terrorismo*, the Public Prosecutor's office responsible for terrorism-related crimes, and published in the independent newspaper *La República*, by the end of January 1993 the Judicial District of Lima alone carried a total of 4,222 such cases within the jurisdiction of the civilian courts. Amnesty International has not been able to ascertain the number of cases being carried by other judicial districts in Peru. This figure includes cases of people detained for alleged terrorism-related crimes before the first of the new anti-terrorism decrees came into effect on 7 May 1992. According to Decree Law N° 25,475, all terrorism-related cases, including those unresolved cases in which the accused were detained prior to 7 May, are subject to the new police and trial procedures,

In addition, *La República*, again on the basis of figures supplied by the Public Prosecutor's Office, reported that by the end of January 1992, 131 prisoners had been convicted by military courts on charges of treason. Of these, 104 had been sentenced to life imprisonment and 27 to terms ranging between 10 and 30 years. Amnesty International believes all these cases have been heard by military tribunals which

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are not independent and impartial. Among those prisoners documented by Amnesty International who have been convicted and sentenced to life imprisonment by such tribunals are PCP leading members **Maritza Garrido Lecca Risco, Abimael Guzmán Reynoso, Martha Huatay Ruiz, Carlos Incháustegui Degola, Elena Iparraguirre Revoredo** and **Zenón Walter Vargas Cárdenas**, and MRTA leaders **Peter Cárdenas Schulte** and **Víctor Polay Campos**. In addition **Dr Jorge Cartagena Vargas** and **Dr Alfredo Crespo Bragayrac**, both members of the *Asociación de Abogados Democráticos*, Association of Democratic Lawyers, and defence counsel in the trials of Martha Huatay and Abimael Guzmán respectively, were also subsequently arrested, charged with treason and sentenced to life imprisonment by military tribunals.

Over and above the procedural shortcomings which Amnesty International believes affect all terrorism-related cases, the organization has received information on specific cases in which there were additional features which served to compound such shortcomings. These included cases in which: proceedings were opened on the basis of evidence possibly secured as a result of torturing the defendant; lawyers found access to their clients and case files obstructed; lawyers were given insufficient time in which to prepare a defence case, were informed incorrectly as to where their client's trial was to take place, or were informed too late of the date their client was to be sentenced; and convictions were secured on the basis of uncorroborated evidence.

**Miguel Fernando Ruiz Conejo Márquez** was detained in Lima on 12 September 1992, on the same date as Abimael Guzmán and numerous other PCP leading members were arrested. According to a detailed report by relatives of the defendant, Miguel Ruiz was held in custody by the DINCOTE for 15 days, during which time he was told that he would eventually be released. However, at the end of this period he was transferred to an unspecified centre of detention, apparently without having been formally charged. For ten days neither his lawyer nor members of his family were able to determine with certainty where he was being held. On 5 October 1992 the defendant's lawyer received a written notification at his office in Lima, the capital, from a navy judge indicating that Miguel Ruiz was to be tried for treason in a military court in Arequipa, in the south of Peru. Despite this notification, on 6 October the defendant's relatives, whose home is in Lima, received a different notification through the post stating that the accused was to appear before a judge on 4 October (two days prior to receiving the notification) at a military base in the town of Puno, also located in the extreme south of Peru. Both Arequipa and Puno are several hundred kilometres from Lima. The defendant's lawyer was thus unable to be present at the trial. On 7 October the lawyer learned in Puno that his client had already been found guilty of treason and sentenced to life imprisonment. The lawyer also learned that the file had been transferred to Arequipa where, on 8 October, Miguel Ruiz's lawyer had the first opportunity to study the file. On 12 October the lawyer filed a *recurso de nulidad*, petition of nullity, before the Supreme Tribunal of Military Justice. The Tribunal did not allow the petition but agreed to reduce the sentence to 30 years imprisonment.

On 4 November 1992 **Dr Luis Williams Polo Rivera**, a surgeon, was detained in Lima, on suspicion of belonging to a medical organization attached to the PCP. The accusation was based on a statement made by Blas Ccori Bustamante Polo, a suspected member of the PCP. Blas Bustamante claimed this statement was obtained from him under torture by members of the police attached to the DINCOTE. Dr Polo was also accused of holding a position of leadership within the PCP. During the trial Dr Polo's lawyer was reportedly given access to his client only once, for a period of ten minutes. On 26 November a military tribunal found Dr Polo guilty of treason and sentenced him to life imprisonment. The lawyer was apparently denied access to his client on the day he was sentenced. Dr Polo himself lodged an appeal

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against the conviction and sentence.

Following his conviction, and while awaiting his appeal, Dr Polo managed to obtain a statement written, signed and finger-printed from Blas Bustamante. According to the statement Blas Bustamante denied having ever been attended by Dr Polo. Despite this evidence, on 21 January 1993 the prosecution continued to argue that Dr Polo was linked to the PCP's medical organization and that he held a position of leadership within the PCP. The defendant's lawyer requested the *Consejo de Guerra*, Council of War, the appeal court within the military justice system, to be shown the evidence on which this latter accusation was founded. However, the Council of War was reported to have refused this request. The military prosecutor has requested the Council of War to uphold the sentence. As far as Amnesty International is aware, by the end of April 1993 Dr Polo awaited the verdict of the appeal court.

In the early hours of the morning of 5 January 1993 **Pedro Telmo Vega Valle** was detained by the DINCOTE in his home. He was charged with treason on the basis of statements made by an alleged member of the PCP who had been arrested prior to Pedro Vega's detention. On the 5 March 1993 Pedro Vega was found guilty by a military court of belonging to an armed unit of the PCP and of possessing explosives, firearms and documents which linked him to PCP attacks in Lima. The military tribunal sentenced him to life imprisonment. According to reports, the statements made by the PCP member implicating Pedro Vega in the attacks played a crucial part in securing his conviction but were never corroborated. In addition his lawyer was reported not to have been given sufficient time to prepare his client's defence.

### 3.5 Prisoners of conscience

Amnesty International believes that the new anti-terrorism legislation in Peru has been used, in some cases, for the unjustified and prolonged detention of prisoners of conscience. Since Decree Law N° 25,475 came into effect in May 1992 Amnesty International has documented the cases of 21 prisoners of conscience. The organization has also documented the cases of many possible prisoners of conscience.

On 2 August 1992 **César Augusto Sosa Silupú**, a student and administrator attached to the University of Piura and an active member of the legal political party *Partido Unificado Mariateguista*, PUM, was detained by the police attached to the *Jefatura contra el Terrorismo*, the regional headquarters of the anti-terrorism police in the department of Piura. César Sosa was detained on suspicion of having been involved in the killing of a former president of the regional government of Grau. He was apparently detained on the basis of statements given to the police by members of the PCP detained in connection with the killing. The police investigating the allegations conducted a search of César Sosa's home and removed from it several documents circulated by the PUM and books written by Marx and Lenin. Although the police concluded that there was insufficient evidence to link César Sosa to the killing, his file was referred to the Public Ministry's prosecutor for a formal decision as to his legal situation. The prosecutor opted to refer the case to the examining judge who, in turn, sent César Sosa for trial before the *Corte Superior de Chiclayo*, a civilian high court in Chiclayo. César Sosa was charged with the offence of "*apología del terrorismo*", "apology for terrorism", under anti- terrorism Decree Law N° 25,475, on the basis of the political literature found in his home. Amnesty International believes that César Sosa is being held in detention and tried solely on the basis of his membership of the PUM and for possessing political literature in his home. By the end of April 1993 César Sosa continued in jail, awaiting his trial *in camera* before a court presided over by secret judges.

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**Segundo Centurión Pérez** and **Lorenzo Izquierdo Regalado**, trade union leaders attached to the *Federación Agraria Selva Maestra*, FASMA, Selva Maestra Agrarian Federation, in the department of San Martín, were detained by the military on 26 and 27 September 1992 respectively. Segundo Centurión was arrested after having complied with a request by the military authorities to go to the military base in Tarapoto. Lorenzo Izquierdo was arrested the following day when he went to the base to inquire about the detention of his colleague. The military accused them of sympathizing with the MRTA. Both detainees were transferred into the custody of the police and formally charged with "apology for terrorism" under Decree Law N° 25,475, on the basis of allegations that they had discredited the army by accusing them of human rights violations and were involved in the writing of trade union documents which called for the "creation of a new state". The charges were upheld by the provincial prosecutor and examining magistrate, who referred the case to a high court. By the end of April 1993 the two men, held in Pisci Prison, Chiclayo, Lambayeque department, continued to await their trial before a civilian secret court.

The *Confederación Campesina del Perú*, CCP, Peasant Confederation of Peru, has claimed that both trade union leaders were arrested for having participated in a campaign by some of the CCP's constituent organizations, in which they complained of extensive human rights violations by the army in the San Martín region. The two men had been responsible for conveying these complaints in a letter directed to President Fujimori. The letter included several documents issued by the members of FASMA claiming that local peasants had been ill-treated by members of the army. Apparently in one of those documents a statement was included in which peasants had resolved to "urge the central and regional government and the armed forces to respect human rights, and to put a halt to the policy of repression and killings and not to continue to kill so many people who are conducting a struggle in favour of the development of our region". Amnesty International believes that Segundo Centurión and Lorenzo Izquierdo were detained solely for their trade union activities and defending the human rights of their trade union members.

On 18 November 1992 **Carlos Alfredo Delgado Altamirano**, a student of law at the University of San Marcos in Lima, was detained by police agents attached to the DINCOTE. He was accused of having links to *Socorro Popular*, an organization attached to the PCP. In a statement dated 8 January 1993 signed by Carlos Delgado he claims that the police produced a piece of paper found with his name on it in the offices of Martha Huatay, a lawyer and leading member of the PCP previously arrested and convicted of treason. Carlos Delgado claimed that this evidence was false. Moreover, he claimed that his lawyer has requested in writing that the DINCOTE show the lawyer and himself this piece of paper as part of the preparation for his defence, but that the request has been ignored. Carlos Delgado also stated that he was threatened and beaten by the police in an attempt to get him to confess his links to the PCP. In addition, he claims that his wife, on visiting the headquarters of the DINCOTE, was told that she would never see her husband again unless she signed a statement claiming that her husband had been a student of Martha Huatay at the University of San Marcos. Carlos Delgado's wife apparently signed the statement without being given the opportunity to read it. According to reports, the authorities at the University of San Marcos have stated that Martha Huatay has never been a teacher at the university. Carlos Delgado has openly been an active member of the *Partido Comunista Peruano*, Peruvian Communist Party, which is integrated into *Izquierda Unida*, United Left, a coalition of legally registered political parties on the Peruvian left. Amnesty International believes he has been detained solely for his known political activism and falsely charged with offences under Peru's new anti-terrorism legislation.

Other prisoners of conscience who were falsely charged with offences under Peru's new anti-terrorism legislation, but who were subsequently freed following months spent in prison, include **Dr Manuel Bure**

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**Camayo** and ten other community leaders from San Ignacio, department of Cajamarca, imprisoned for eight months; student **José Miguel Reaño López**, imprisoned for eight months; and journalist and human rights defender **Magno Sosa Rojas**, imprisoned for five months.

### 3.6 Arbitrary detentions

At least 50 people, including ministers during the government of former president Alan García Pérez, parliamentarians, trade unionists, journalists, representatives of regional governments, and a Supreme Court judge, were arbitrarily detained by the security forces immediately preceding, or in the wake of, the speech by President Fujimori on 5 April 1992 in which he announced the dissolution of Congress and the suspension of constitutional rule. The detainees were held in military or police establishments, their work places, or in their homes. All except one of the detainees were released without charges within days.

Amnesty International believes that many of those persons detained and subsequently released were prisoners of conscience detained solely because of their opposition to the government, trade union activities or attempt to exercise the right to freedom of expression.

Among those persons detained and subsequently released were **Felipe Osterling Parodi** and **Roberto Ramírez del Villar**, presidents of the Senate and Chamber of Deputies respectively; members of parliament **César Barrera Bazán**, **Eugenio Chang Cruz**, **Jorge del Castillo**, **Aurelio Loret de Mola**, **Luis Negreiros Criado**, **Fernando Olivera Vega** and **Alberto Quintanilla Chacón**; political activists **José Barsallo Burga**, **Alberto Kitazono**, **Jorge Luis Mantilla**, **Remigio Morales Bermúdez** and **Abel Salinas**, all from the opposition party *Alianza Popular Revolucionaria Americana*, APRA, American Revolutionary Popular Alliance; **Gustavo Gorriti Ellenbogen**, journalist and researcher into the clandestine *Partido Comunista del Perú (Sendero Luminoso)*, and **20 other journalists**; **Olmedo Auris**, **Soledad Lozano** and **three other trade union leaders**; and Supreme Court judge **Horacio Valladares Ayarza**.

### 4. Impunity

Amnesty International believes that the phenomenon of impunity is one of the key factors contributing to the pattern of human rights violations in Peru.

Peru is obliged by the international human rights treaties which it has ratified, and by the present Constitution, to investigate all human rights violations. Provisions for the immediate investigation of human rights violations are also contained in the regulations governing the Public Ministry; and in the right to file a *habeas corpus* petition (this right was repealed in August 1992 by Decree Law N° 25,659 in cases where the person suspected of "crimes of terrorism" is in police custody or in prison awaiting trial and sentence). Despite these obligations, there have been few full and independent judicial investigations during the past 10 years, even in cases of gross human rights violations. Usually, in those rare cases where judicial investigations have been initiated, the investigations have not been satisfactorily taken forward and concluded. In still others where the alleged perpetrators are brought to justice, military tribunals almost invariably hear the cases and absolve the accused. By the end of April 1993, of the thousands of "disappearance", extrajudicial execution and torture cases perpetrated by the security forces since a pattern of systematic violations was first documented, the vast majority have not been thoroughly

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investigated and those responsible have not been brought to justice.

Amnesty International knows of only two judicial cases in the past 10 years in which members of the Peruvian army have been convicted and sentenced by military courts to significant prison terms for the deliberate and arbitrary killing of civilians. On 10 February 1993 the Supreme Council of Military Justice upheld the ten-year term of imprisonment imposed on army lieutenant Javier Bendezu Vargas, following the massacre of **15 peasants**, including six children, in July 1991. The officer, together with six soldiers, had been charged with a series of crimes against the victims, all from the community of Santa Bárbara in the department of Huancavelica. However, Lieutenant Bendezu was absolved by the Supreme Council of Military Justice of the crime of aggravated homicide. Instead he was sentenced for the military crime of abuse of authority and having made false statements. Two of the soldiers had their ten and eight month prison sentences for military and relatively minor criminal offences confirmed. Two other soldiers had their convictions for rape and one soldier had his conviction for aggravated homicide and abuse of authority quashed. No steps appear to have been taken to investigate the allegations of intimidation and threats by the military directed against the Public Ministry provincial prosecutors in the town of Huancavelica who sought to have the Santa Bárbara case heard before a civilian court.

In a separate case, on 26 March 1993, the Supreme Council of Military Justice was reported to have upheld the sentence of six years imprisonment imposed on former lieutenant Telmo Hurtado for the massacre of **69 peasants**. The peasants were killed by the army in Accomarca, Ayacucho department, in August 1985.

The above judgements on lieutenants Bendezu and Hurtado are virtually unique in the past 10 years of extensive human rights violations by members of the armed forces. In thousands of other cases documented by Amnesty International in which there appeared to be evidence of the armed forces having violated human rights, the authorities have failed to conduct full and independent inquiries and have frequently not brought those responsible to justice. The following are just a few illustrative cases of human rights violations committed by the armed forces during the government of President Fujimori which remain cloaked by impunity.

In May 1992 only members of the police were charged by a military court with "violating personal freedom and abuse of authority" in connection with the 1991 detention of **three officials and a peasant** from the district of Chuschi, Cangallo province, in the department of Ayacucho. The authorities, however, failed to initiate proceedings against the members of the army alleged to have been directly responsible for their "disappearance" following transfer by the police of the detainees into military custody. In addition, no steps appear to have been taken to bring to justice the soldiers responsible for threatening and intimidating with explosives the Public Ministry's prosecutor and other officials, who together with relatives of the "disappeared", requested entry into an army base to inquire as to their whereabouts.

In another case, members of the army alleged to be responsible for the summary killing of a trade union activist also appeared to have successfully avoided being judicially investigated. On the night of 7-8 September 1992 **Josías Ramírez Angulo**, a trade union leader working for the *Sindicato de Trabajadores Municipales de Lamas*, Lamas Municipal Workers Union, San Martín department, was shot dead as he was returning to his home. According to the *Oficina Prelatural de Acción Social de Moyabamba*, a local church-based welfare and human rights organization, the Public Ministry's provincial prosecutor concluded that a corporal attached to the *Compañía Especial N° 115 del Comando Tarapoto*, Special Unit

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N° 115 of the Tarapoto Command, led by an army captain code-named "Cobra", was responsible for the killing. The Lamas provincial prosecutor is reported to have written on four occasions to the head of the Huallaga Front Political-Military Command requesting that the corporal report to the prosecutor's office or to the police. However, the head of the Command apparently refused to comply with the request. The investigation into the killing is not known to have progressed any further.

In Peru, if two different jurisdictions - the military and the civilian - seek to hear a case of alleged abuse by members of the security forces, the Supreme Court is requested to decide which system will deal with the case. Until such a decision is taken, the case may formally remain open under both jurisdictions. On some occasions where the Supreme Court has taken a decision, the Court has almost invariably decided in favour of the case being heard by a military court. On other occasions the military system of justice has completed its hearings and declared the case closed, prior to the Supreme Court having reached a ruling on the appropriate jurisdiction. In such an event the military judicial system has forestalled completion of the hearings before the civilian courts on the grounds that the case has already had final judgment passed on it, and therefore cannot be heard in a court under civilian jurisdiction.

Such an outcome appears to have been the case with a sergeant accused of the massacre of **18 peasants** whose bodies were found in Chilcahuaycco, near San Pedro de Cachi, Ayacucho, in September 1990. According to reports, the sergeant was eventually absolved of any responsibility for the killings and was returned to active service, following a ruling in his favour by the Supreme Council of Military Justice in September 1992. Prior to this decision a request by a civilian examining judge for the sergeant to appear before him was repeatedly ignored by the military.

In December 1992 former vice-president Máximo San Roman, who was removed from office as a result of the suspension of constitutional rule in April 1992, released a document which named the members of the army who were alleged to have organized and carried out the massacre of **16 people** in the district of Barrios Altos, Lima, in November 1991. The Armed Forces Joint Command issued a communique claiming the document circulated by the former vice-president was forged. However, *Sí*, a national magazine, subsequently published the testimony of an officer attached to the Army Intelligence Service confirming the army's involvement in the killings. By the end of April 1993 the perpetrators of this massacre were not known to have been brought to justice.

## 5. Amnesty International and the Government of Peru

Since April 1992 Amnesty International continued to appeal to the authorities to thoroughly and impartially investigate cases of "disappearance", extrajudicial execution, and torture and ill-treatment, and to bring the perpetrators to trial. The authorities replied on several cases, in most denying the allegations. President Fujimori's government -- as with the governments of former presidents Belaúnde Terry and García Pérez -- failed to thoroughly investigate thousands of ongoing and past cases of human rights violations and bring the perpetrators to justice. Amnesty International also called for the unconditional release of prisoners of conscience.

In April 1992 Amnesty International expressed its deep concern to President Fujimori at the measures taken by his emergency government following the suspension of constitutional rule, stating that they seriously threatened to undermine the protection of human rights. Also in April Amnesty International

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wrote to the President enclosing a copy of the submission sent that month to the United Nations, pursuant of Economic and Social Council resolution 1503 (XLVIII). The organization invited the President to comment on the contents of the submission. By mid-April 1993 the Government of Peru had not responded to the invitation.

In May 1992 Amnesty International wrote to the President requesting a full and impartial inquiry into the precise circumstances, manner and cause of death of those PCP prisoners killed that month in Castro Castro Prison. The government replied that it had made public a complete list of the prisoners killed, and of those transferred to hospitals and other prisons. However, the government failed to initiate a full and independent inquiry into the killings and to supply information Amnesty International had requested on the fate of up to 130 PCP prisoners apparently unaccounted for following the end of the operation.

In October 1992 Amnesty International urged the President to ensure that PCP leader Abimael Guzmán be tried according to standards enshrined in international human rights law. In November 1992 the organization urged the President not to extend the death penalty for cases of treason under Peru's anti-terrorism legislation, and to ensure that it was abolished for all crimes. A similar appeal was made in January 1993 to the 80 members of the newly installed *Congreso Constituyente Democrático*.

Also in November 1992 the organization publicly appealed to the Government requesting guarantees for the physical safety of army officers detained in connection with the coup attempt that month against President Fujimori. In December 1992 Amnesty International stated publicly that it was concerned that trial procedures held under the procedures enshrined in the new anti-terrorism decrees fell short of international standards.

In February 1993 the organization wrote to the Constitution Commission of the CCD. The organization outlined its concerns in Peru and provided the Commission with a comprehensive set of recommendations in line with international human rights standards for inclusion in the Constitution.

## 6. The armed opposition

The pattern of gross human rights violations by the security forces described above occurs against a background of widespread abuses by 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.

The PCP is believed to have been formed during the mid-1970s campaign for land reforms in the Andean highlands department of Ayacucho. Its armed actions have now extended to virtually every department in Peru. The aim of this group is to establish a worker-peasant state through a prolonged rural insurgency, gradually extending throughout the country to encircle the urban areas, and through the destruction of the local apparatus of the state's authority in preparation for setting up its own systems of control. The PCP has, since 1980, engaged in a protracted strategy of sabotaging public utilities and destroying the livestock and produce of peasant communities earmarked for sale in the towns and coastal cities in order to expedite the collapse of urban resistance. Since 1989 the PCP increasingly centred its attacks on the urban complex known as Metropolitan Lima, which includes the capital itself, and in which one-third of the population (about seven million people) live.

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For over a decade the PCP has demanded boycotts of municipal, parliamentary and presidential elections and threatened and murdered candidates and voters alike. In an attempt to remove the civilian state apparatus from villages and towns in rural areas, the PCP has summarily killed hundreds of municipal election candidates, mayors and other local and regional state officials and administrators. The PCP has also removed by force from these rural areas many police outposts. In some of these areas the PCP has reportedly come to establish its own power structures, at times clandestinely and in others openly.

The PCP has clearly stated its opposition to the concept of human rights in a 71-page internal document entitled "Sobre las dos colinas: la guerra contrasubversiva y sus aliados", reported to have been written almost in its entirety by PCP leader Abimael Guzmán in 1991. The document analyzes and comments the government's counter-insurgency strategy as developed under President Fujimori's administration, and includes within it an analysis of the counter-insurgency role and operational aspects attributed by the PCP to different "bourgeois" sectors of civil society. These sectors, which includes human rights organizations, are accused in the document of working in concert with the counter-insurgency strategies of the government and of "imperialism".

On human rights the document states: "... [the PCP's] position is quite clear, we reject and condemn human rights because they are reactionary, counter-revolutionary, bourgeois rights; they are presently the weapon of revisionists and imperialists, principally of yankee imperialism." In the same document "the great majority" of non-governmental human rights organizations are identified as "counter-revolutionary" and "conscious and unconscious lackeys of imperialism". Similar criticisms are directed against leading journalists and investigators researching the PCP; priests, nuns and other religious workers attached to the Roman Catholic and evangelical churches; political activists and organizations from across the political spectrum; and leaders of popular organizations not in sympathy with the PCP's aims and methods, such as trade unions and shanty-town food aid and development projects. Members attached to all of these sectors, in addition to thousands of peasants deemed to have been active collaborators of the counter-insurgency forces or who refused to join the PCP, have been targeted, threatened and killed by the organization during its 13-year armed campaign.

Despite this unequivocal rejection of human rights, the PCP has invoked international human rights standards when they serve the PCP's purposes. The above document is again clear:

"We start from the position that we do not subscribe either to the Universal Declaration of Human Rights or to the Costa Rica declaration [American Convention on Human Rights]; but we do use their legal provisions to uncover and denounce the old Peruvian state, its institutions, organizations and authorities, beginning with the person who leads it, and then its officials and their subordinates who violate human rights by failing to abide by their own international obligations ... Our policy is to make use of everything that ... serves to make evident the genocidal policies of the counter-revolution."

The above policy, for instance, was made evident by PCP prisoners in Castro Castro Prison, in the context of the PCP's claims that President Fujimori was intent on provoking a confrontation with the inmates, and again in documents issued by the inmates following the four-day Castro Castro siege in May 1992 which ended with at least two policemen and 42 PCP prisoners killed (see above, pages 35).

In April 1992, within days of President Fujimori dissolving the legislature, suspending constitutional rule, and announcing that the country was to be run by an executive-led emergency government, the PCP stepped up their attacks on police and military establishments in Metropolitan Lima. These fatal attacks

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were subsequently extended to exclusively civilian targets. Following the detention of PCP leader Abimael Guzmán and other members of the PCP's central committee in September 1992, and the arrest in the months that followed of many activists and combatants attached to the organization, independent analysts stated that the PCP had suffered a significant setback in its attempts to achieve its aims. However, many of these same analysts indicated that the structures of the PCP's military wing remained virtually intact and that the organization would seek to rebuild its political command structures.

Since September 1992 the authorities have reported numerous confrontations, both in rural and urban areas, between the security forces and units of the armed opposition, in which the latter were claimed to have suffered major defeats. Other sources, however, have stated that these successes by the security forces have been exaggerated, and that the PCP in particular continued to maintain a significant presence in some rural areas of the Andean highlands and rainforest.

In November 1992, and again in January 1993, the PCP called for a boycott and "armed strike" against congressional and municipal elections respectively. In the period running up to these elections the PCP threatened, and often killed, election candidates. At the end of April 1993 the PCP was reported to have detonated car bombs outside the premises of the Ministry of Education and an of organization owned by Carlos Boloña, the former Minister of Economy and Finance. Three pedestrians were said to have been wounded in one of these attacks. Around the same time bombs were reportedly detonated by the PCP at seven banks in the capital.

The MRTA was founded in the mid-1970s, but did not launch its first armed action until June 1984. Its actions were initially concentrated in urban centres, particularly Lima, but from the end of the 1980's the MRTA extended its sphere of operations to rural areas, particularly the rain forest valleys of the departments of Junín, Pasco, Huánuco and San Martín, and in the western departments of Lima and Cajamarca. The MRTA has engaged in sabotage, the occupation of towns, villages and public buildings, and armed attacks on police and army patrols. The MRTA has also been responsible for attacks on police, military and government installations in these areas, and for the planting of bombs in public places. During 1992 the MRTA was reported to have experienced a number of internal divisions which weakened the organization's capacity to carry out sustained armed attacks.

On several occasions, particularly after the arrest in 1992 of Abimael Guzmán and Victor Polay, leaders of the PCP and MRTA respectively, President Fujimori publicly stated that the government's new counter-insurgency strategy is leading to the eventual pacification of the country. The President has gone as far as to say that the MRTA and the "genocidal" PCP will be completely defeated by mid-1993 and mid-1995 respectively.

## 7. Abuses by the armed opposition

Since 1980 Amnesty International has received thousands of reports of abuses attributed to the PCP. These abuses have included cases of torture and of the deliberate and arbitrary killings of civilians and members of the security forces who were hors de combat. Such abuses have also occasionally been attributed to the MRTA.

Thousands of those killed by the PCP have been defenceless civilians not involved in the internal conflict.

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The PCP has also continued regularly to torture captives, sometimes after mock trials conducted before forcibly assembled villagers. The group has also carried out selective assassinations of military and civilian officials. Police and military personnel whom it has captured or who were incapacitated by wounds or surrendered have also been killed.

In December 1992, during a visit to Peru, Amnesty International delegates investigated cases of deliberate and arbitrary killing by the PCP. Relatives, friends and colleagues of numerous victims gave detailed testimonies of such abuses. Among the many cases recorded by the organization were several perpetrated by members of the PCP in the districts of Río Negro and San Martín de Pangoa, Satipo province, in the rainforest region of Junín department. One of these cases involved the massacre on 17 May 1990 of some **30 men, women and children** who lived in a communal indigenous family house in the Unión Alto Saniveri settlement, San Ramón de Pangoa community, in the district of San Martín de Pangoa. According to the recorded testimony of one of the community leaders, the massacre was a reprisal for the community having refused to join the ranks of the PCP.

Other cases of alleged PCP summary killings for which Amnesty International's delegates received detailed testimonies included the cases of at least **five community leaders** from shantytown districts in the city of Huancayo, Junín department. The killings were carried out in separate incidents. One of these cases involved the gunning down of **Franklin Rivera Tabera**, the president of a neighbourhood committee seeking to instal a drinking water and sewerage system in the Juan Parra del Riego district of Huancayo city. About two months prior to being shot outside his home, Franklin Rivera's wife was told by two youths who identified themselves as members of the PCP that her husband would be killed. In the event, he was shot in the head at point-blank range late in the evening of 29 January 1992. His killing was eye-witnessed by a colleague who had just left him at the corner of his street, after having attended a neighbourhood meeting. According to a colleague, Franklin Rivera was probably killed for his public involvement in the local branch of a registered left-wing political party and for his leadership of the independent neighbourhood association working on the water and sewerage system.

Among the defenceless civilians who were victims of PCP attacks were men, women and children killed by car bomb attacks on civilian targets in Lima, the capital. For instance, **25 people** were killed in separate attacks on the headquarters of a television station and a residential street in June and July 1992 respectively. A car bomb, reportedly detonated by members of the PCP outside a Coca-Cola bottling plant on 22 January 1993, killed at least **two civilians**.

On the night of 10 October 1992 a PCP unit attacked the community of Huayllao, located in the Tambo district, province of La Mar, Ayacucho department. The massacre resulted in the killing of **47 peasants, including 14 children** aged four to 15. The community had reportedly established a civil defence patrol but was said to have been armed at the time with no more than five shot-guns. According to a transcribed interview with the mayor of Tambo, the mayor described the massacre as "one of the most horrible massacres that has afflicted our department ... it was an unspeakable and savage attack in which the elderly, children and defenceless women were killed."

Other recent victims of PCP torture and summary killings include the following cases. On 18 December 1992 **Pedro Huilca**, Secretary General of the *Confederación General de Trabajadores del Perú*, General Confederation of Workers of Peru, was shot dead in Lima. *El Diario*, a clandestine newspaper sympathetic to the PCP, claimed the PCP had carried out the killing and described it as "the best homage the PCP could pay to the national and world revolutionary proleteriat". On 11 January 1993 **Luis Roando**

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**Galindo**, the deputy mayor of Villa El Salvador, who replaced **María Elena Moyano** after she was gunned down by the PCP in February 1992, was shot dead in a attack which bore the hallmarks of a PCP killing. In February 1993 **Edilberto Román Pérez**, administrator of the Hacienda San Jacinto, a farm in Pisco, Ica department, was reportedly tortured and shot dead by members of the PCP in the presence of other workers. The perpetrators apparently left a sign saying "So die those who exploit peasants".

There have also been cases of torture and deliberate and arbitrary killings of civilians and members of the security forces attributed to the smaller MRTA. On 11 September 1992 members of the MRTA were reported to have kidnapped **David Ballón Vera**, a businessman, zinc mine owner and former president of the state oil company Petroperú, as he was driving to his offices in the Surquillo district of Lima. Following his abduction, the MRTA was reported to have contacted his family and made a ransom demand. In February 1993, over five months later and after ransom money was handed over, Ballón's body, weighing less than 40 kilos, was found with two bullet wounds in the head and with signs of torture.

During the first days of January 1993 three off-duty soldiers based at the 9 de Diciembre barracks in the city of Huancayo, Junín department, were reported to have been captured by members of the MRTA. The soldiers were on their way to visit their families in San Marco de Rochac, some 50 kilometres east of Huancayo. The bodies of second sargeant **Jaime Lázaro Cano**, corporal **Walter Alcócer Capcha** and soldier **Damián García Ventura** were found on 8 January, apparently severely mutilated and showing signs consistent with the victims having been tortured.

## 8. Amnesty International and armed opposition abuses

Amnesty International condemns hostage taking, and the torture and killing of prisoners by anyone, including political and armed opposition groups, as a matter of principle. It also condemns other deliberate and arbitrary killings, for example killings carried out solely because of the victim's ethnic origin, sex, colour, language, religion, or beliefs.

The organization works within the framework of international law as it concerns the human rights obligations of governments and of principles derived from humanitarian law which **all parties** involved in internal armed conflict must respect. Amnesty International condemns the abuses of armed opposition groups responsible for the torture or deliberate and arbitrary killing of civilians not involved in the conflict and of members of the security forces who are *hors de combat*.

The organization does not treat opposition groups as if they had the status of governments which are party to international human rights standards. Amnesty International promotes minimum international standards of humane behaviour, such as the principles contained in humanitarian law, by which any armed opposition group and government should abide, and it urges them to endorse and uphold these standards.

Amnesty International is fully aware of the extent of political violence in Peru, including extensive abuses by the PCP and MRTA. The organization, which has repeatedly condemned such abuses, first condemned the PCP's abuses in August 1983, in a letter directed to former president Fernando Belaúnde Terry expressing concern about evidence of human rights violations by the armed forces in the emergency zones. Since then the organization has explicitly condemned abuses by the PCP in its publications,

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submissions to international human rights organizations and letters to successive Peruvian governments. Amnesty International has also expressed publicly its condemnation of the PCP through interviews broadcast internationally and within Peru, and through letters and extensive interviews published in the Peruvian press. For instance, in July 1992 Amnesty International publicly condemned the PCP car bomb attack in Miraflores, Lima, which killed some 22 civilians; and in December 1992, during the visit of an Amnesty International delegation to Peru which included investigating human rights violations by the government's security forces and abuses by the armed opposition, La República and Caretas published extensive interviews with Amnesty International's delegates in which the organization expressed its condemnation and opposition to the thousands of abuses perpetrated by the PCP.

Amnesty International urges the PCP and the MRTA to fully respect and abide by the humanitarian standards enshrined in Common Article 3, paragraph 1(a), (b), and (c), of the four Geneva Conventions of 1949, whatever the extent of their resort to violence, and whatever the level of fighting or violent confrontations with the government. The preamble to Common Article 3, and the paragraph sections referred to above, state:

"In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment."

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## APPENDIX 1

### MASSACRES BETWEEN JANUARY 1983 AND APRIL 1993 DOCUMENTED BY AMNESTY INTERNATIONAL

Between January 1983 and April 1993 Amnesty International documented 18 massacres in which some 500 people were killed by the security forces or by so-called paramilitary groups or civil defence patrols working with their support.

As of April 1993, in only four of the massacres have members of the security forces been convicted for their participation in the killings. These massacres were: the Soccos massacre in November 1983; the Accomarca massacre in August 1985; the killings in the Lurigancho prison in Lima, in June 1986; and the Santa Bárbara massacre in July 1991. In the first and third cases members of the police were sentenced to terms of imprisonment. In only two cases where members of the armed forces have been accused of mass killings, the Accomarca and Santa Bárbara cases, have those responsible been convicted and sentenced to terms of imprisonment.

#### A. Massacres during the administration of former president Fernando Belaúnde Terry (1980-1985)

1. The killing of **eight journalists and their guide** in Uchuraccay, Huanta, Ayacucho department, on 26 January 1983. The killings were carried out by peasants reportedly ordered to do so by the army who encouraged them to kill outsiders entering the area.
2. The discovery on 22 and 23 August 1984 of several mass graves at Pucayacu, Huanta, Ayacucho department, containing the bodies of some **50 peasants**, all of whom had been reportedly shot in the head by members of the military.
3. The killing on 13 November 1983 by the *Guardia Civil*, Civil Guard, a former branch of the police, of at least **47 men, women and children** from the village of Soccos, province of Huamanga, department of Ayacucho.

#### B. Massacres during the administration of former president Alan García Pérez (1985-1990)

1. The killing led by army lieutenant Telmo Hurtado Hurtado of **69 peasants**, including more than 20 children, in the village of Accomarca, Vilcashuamán, Ayacucho department, on 14 August 1985. (See above, page 33).
2. The reported killing by members of the armed forces and of the Republican Guard, a branch of the

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police, of **124 prisoners** at Lurigancho prison, and the killing or "disappearance" of at least a further **120 inmates** at El Frontón and Santa Bárbara prisons, in Lima, in June 1986. Although the Court of Appeal of the Supreme Council of Military Justice upheld in June 1990 the convictions against two Republican Guards, and further convicted eight other Guards for their part in the Lurigancho prison killings, as yet no member of the armed forces has been convicted for their alleged involvement.

3. The apparent extrajudicial execution by members of the military of **13 villagers** from Parcco Alto and Pomatambo, Ayacucho department, on 22 October 1986.

4. The alleged killing by members of the army of some **30 peasants** in Cayara, Victor Fajardo province, department of Ayacucho, on 14 May 1988, and the subsequent killing or "disappearance" of **nine witnesses** to the massacre between June 1988 and September 1989.

5. The reported killing by police of some **30 members** of the Ucayali Federation of Peasants in the town-centre of Pucallpa, Ucayali department, on 9 February 1989.

6. The reported killing by army troops of **11 villagers** in Calabaza, Satipo province, Junín department, on 17 May 1989.

7. The reported killing of **13 peasants** and the "disappearance" of **eight others** after their alleged detention by members of an army patrol, in Chumbivilcas province, Cuzco department, and in the neighbouring department of Apurímac, between 23 and 28 April 1990.

## C. Massacres during the present administration of President Alberto Fujimori (1990- )

1. The apparent summary killing by members of the army of **16 men, women and children** from the community of Iquicha, near Uchuraccay, Huanta province, Ayacucho department, on 22 August 1990.

2. The killing of **18 peasants** by members of the army whose bodies were found in mass graves in Chilcahuaycco, in the district of San Pedro de Cachi, Huamanga province, Ayacucho department, on 18 October 1990. (See above, page 34).

3. The extrajudicial execution, led by army lieutenant Javier Bendezu Vargas on 4 July 1991, of **15 men, women and children** from the community of Santa Bárbara, Huancavelica province, department of Huancavelica. (See above, page 32).

4. The reported extrajudicial execution of **seven people**, and the "disappearance" of a further **four**, by an army patrol, following their detention on 15 October 1991 in the hamlet of Pueblo Nuevo, near Aucayacu, Leoncio Prado province, department of Huánuco.

5. The killing of **eight people**, reportedly by members of the security forces or a so-called paramilitary group acting with their support, on 24 October 1991 in Villa de Santa Rosa, San Juan Bautista district, Ayacucho city, department of Ayacucho.

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6. The killing of **12 men, three women and one child**, reportedly by members of the army, on 3 November 1991 in the Barrios Altos neighbourhood in Lima. (See above, page 34).

7. The reported extrajudicial execution of **three men and two women** by the police in the district of Chavín, Huari province, Ancash department, on 8 February 1992.

8. The reported extrajudicial execution of **14 people** by the military in the Alto Huallaga area, Leoncio Prado province, Huánuco department, on 10 March 1992.

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## **APPENDIX 2**

### **STATISTICS ON "DISAPPEARANCES" AND EXTRAJUDICIAL EXECUTIONS DURING THE GOVERNMENT OF PRESIDENT ALBERTO FUJIMORI**

**Table 1**

**Peru: Number of people documented by Amnesty International as "disappeared"  
between 28 July 1990 and 30 April 1993**

Period	Number of people				
	Total documented	Later released	Later acknowledged in detention	Later found dead	Remained unaccounted for
28 July 1990 - 31 July 1991 (12 months)	372	79	4	17	272
1 August 1991 - 31 July 1992 (12 months)	298	37	1	13	247
1 August 1992 - 30 April 1993 (9 months)	76	16*	2	17	41
Totals	746	132	7	47	560

\* one of these victims escaped

**Table 2**

**Peru: Number of people documented by Amnesty International as extrajudicially executed between 28 July 1990 and 30 April 1993**

Period	Number of People
28 July 1990 - 31 July 1991 (12 months)	88
1 August 1991 - 31 July 1992 (12 months)	105
1 August 1992 - 30 April 1993 (9 months)	35
Total	228