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PERU

UN experts condemn Amnesty Laws

During the 47th Session of the United Nations (UN) Sub-Commission on Prevention of Discrimination and Protection of Minorities held in Geneva in August 1995, the Chairman of the Sub-Commission pledged to examine during its forthcoming 48th Session a draft resolution on Peru's two Amnesty Laws which came into effect in June and July 1995. In view of this pledge, the purpose of this special report submitted by Amnesty International to the Sub-Commission is to bring together the concerns expressed by the UN Commission on Human Rights thematic mechanisms, and the concerns and recommendations by the Human Rights Committee, regarding both Amnesty Laws. In addition, this report also summarizes Amnesty International's concerns on these laws and makes a set of recommendations to the Sub-Commission.

I. IMPUNITY AND PERU'S AMNESTY LAWS

A pattern of widespread and systematic human rights violations have afflicted Peru since 1980.¹ This pattern of violations includes thousands of unresolved cases of arbitrary detentions, enforced disappearances, torture, summary executions and unfair trials. These human rights violations by the security forces occur against a background of extensive human rights abuses by Peru's armed opposition groups, the *Partido Comunista del Perú (Sendero Luminoso)*, PCP, Communist Party of Peru (Shining Path), and, to a lesser extent, the *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement, which initiated their armed campaigns in 1980 and 1984 respectively.

Throughout these years Amnesty International has been seriously concerned by the failure of the Peruvian authorities to take the necessary steps to investigate promptly and effectively the vast majority of these human rights violations and bring those responsible to justice. In the words of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions in his report of his 1993 visit to Peru: "the institutionalization of impunity in Peru [is one of] the main problems with regards to [a lack of respect for] the right to life."²

In June 1995 the Peruvian authorities took forward this "institutionalization of impunity" by ensuring that impunity entered into law. On 14 June 1995 Peru's National Congress passed Law N°26479³, Article 1 of which grants a general amnesty to all those members of the security forces and civilians who were the subject of a complaint, investigation, indictment, trial or conviction, or who were serving prison sentences, for human rights violations committed between May 1980 and 15 June 1995.

¹ See *Peru: Summary of Amnesty International's concerns 1980-1995*, AI Index: AMR 46/04/96, 23 February 1996. This report was submitted to the Human Rights Committee in February 1996.

² See UN Doc. E/CN.4/1994/7/Add.2, para. 93, 15 November 1993.

³ See Appendix 1 for the complete text of Law N°26479 in English and Spanish. The text of the law in English has been translated by Amnesty International. The Spanish version is a transcription of the law as published in the Official Gazette *El Peruano*, 15 June 1995.

Following the promulgation of this Amnesty Law, the judge in charge of investigating a November 1991 massacre in Lima (in which 15 men, women and children were reportedly killed by a “death squad” attached to the Peru’s National Intelligence Service) argued that the Amnesty Law was inapplicable to this case. However, on 28 June 1995, before her ruling reached the High Court for ratification or veto, the National Congress passed a second Amnesty Law --Law N°26492⁴-- which prohibits the judiciary from ruling on the legality or applicability of the first amnesty law and widens its scope. This law came into effect on 3 July 1995.

During 1996 two additional laws have been passed by Peru’s National Congress which further hamper the possibility of Peruvian citizens questioning the two Amnesty Laws.

Firstly, on 15 April 1996 the National Congress passed Law N°26592⁵, which modifies the prerequisites for holding a national referendum. This law, promulgated by the Executive on 17 April 1996, adds a further legal requirement for holding a referendum. Whereas before a referendum could be held on reception of the proven signatures of no less than 10% of the electorate, under this new law such a referendum now also requires the approval of two fifths of the members of the National Congress in favour of a referendum on the issue proposed.

Secondly, on 31 May 1996 the National Congress passed Law N°26618⁶, which was promulgated by the Executive on 7 June 1996. This law stipulates that a petition challenging the constitutionality of a law must be filed before the Constitutional Tribunal within six months of the publication of the law in question

II. UN EXPERTS CONDEMN PERU’S AMNESTY LAWS

On 2 August 1995 the **UN Special Rapporteurs on extrajudicial, summary and arbitrary executions, on torture and on the independence of judges and lawyers**, as well as the **Chairman of the UN Working Group on Enforced or Involuntary Disappearances**, sent a “joint urgent appeal” to the Government of Peru. In their communication the experts referred to both of Peru’s Amnesty Laws as norms which “favour impunity [and] are contrary to the spirit enshrined in human rights instruments, including the Vienna Declaration approved by the World Conference on Human Rights on 25 June 1993”. The experts also concluded that the second Amnesty Law “violates the basic principles of the rule of law as well as contradicting the spirit of the ... [UN] Basic Principles on the Independence of the Judiciary”.

⁴ See Appendix 2 for the complete text of Law N° 26492 in English and in Spanish. The text of the law in English has been translated by Amnesty International. The Spanish version is a transcription of the law as published in the Official Gazette *El Peruano*, 2 July 1995.

⁵ See Appendix 3 for a photocopy of Law N°26592, as published in the Official Gazette *El Peruano*, 18 April 1996.

⁶ See Appendix 4 for a photocopy of Law N°26618, as published in *Normas Legales: Revista de Legislación y Jurisprudencia*, Volume 241, page 64, June 1996.

In August 1995, during the 47th Session of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, the **Chairman of the Sub-Commission** expressed concern about the Amnesty Laws, noted the contents of the communication sent by the Special Rapporteurs on extrajudicial, summary and arbitrary executions, on torture and on the independence of judges and lawyers, as well as the Chairman of the UN Working Group on Enforced or Involuntary Disappearances to the Government of Peru, and supported their initiative.

From 12 August to 25 August 1995 the **Representative of the UN Secretary General on Human Rights, Mass Exoduses and Displaced Persons** visited Peru. In his report, the Representative of the Secretary General concludes, *inter alia*, that “Ongoing human rights violations must be condemned and laws that violate international standards (such as the amnesty laws) need to be reconsidered [...] Emphasis should be given to solving any remaining cases of “disappearances” and an efficient mechanism for compensation of those who have been victims of abuses needs to be established.”⁷

The **UN Working Group on Enforced or Involuntary Disappearances** in its 1996 report on Peru concludes that “the Group wishes to express its deep concern at the Amnesty Law and the law of interpretation [Law N°26492]. Both laws are in contradiction to the Declaration [on the Protection of All Persons from Enforced Disappearance], which establishes the obligation of States to prosecute the presumed perpetrators of acts of enforced disappearance (art. 17⁸) before the ordinary tribunals (art.16, para. 2). In enacting the above-mentioned laws the State of Peru has failed to fulfil its international commitment that the perpetrators or presumed perpetrators of enforced disappearance should not benefit from an amnesty law (art 18). The impunity which such laws create is conducive to the repetition of such acts as well as to other forms of human rights violations.”⁹

The **UN Special Rapporteur on torture** observed in his 1996 report on Peru that: “As regards the amnesty, the Special Rapporteur would point out that, both under general international law and under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States are obliged to investigate allegations of torture, ensure that perpetrators are brought to justice and provide means of redress, including compensation, to victims. It is axiomatic that a State’s national law may not be invoked to avoid its obligations under international law. Article 27 of the Vienna Convention on the Law of Treaties sets forth in this regards, that ‘a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty’”.¹⁰

⁷ See UN Doc. E/CN.4/1996/52/Add.1, para. 130, 4 January 1996.

⁸ Amnesty International believes that the Working Group may have intended this reference to be to Article 14 which addresses the duty to bring to justice those responsible for enforced disappearance.

⁹ See UN Doc. E/CN.4/1996/38, para. 356, 15 January 1996.

¹⁰ See UN Doc. E/CN.4/1996/35, para. 136, 9 January 1996.

In addition, the **UN Special Rapporteur on extrajudicial, summary or arbitrary executions** has also expressed concern at both Amnesty Laws in his 1996 report on Peru. In his report he stated: “The Special Rapporteur considers that the promulgation of an amnesty law in June 1995 favours impunity and denies the right to an effective remedy for victims of human rights violations. Moreover, it is contrary to the spirit of general international law, according to which States are obliged to investigate allegations of human rights violations, ensure that perpetrators are brought to justice and provide means of redress, including compensation, to victims.”¹¹

Most recently, further critical observations on Peru’s Amnesty Laws have been made by the **UN Committee on Human Rights**. During its 57th Session in July 1996, the Human Rights Committee initiated its consideration of Peru’s third periodic report. On 25 July 1996 the Committee published its Preliminary Observations. Among its concerns the Committee stated that it was: “deeply concerned that the amnesty granted by Decree (sic) Law 26,479 on 14 June 1995 absolves from criminal responsibility and, as a consequence, from all forms of accountability, all military, police and civilian agents of the State who are accused, investigated, charged, processed or convicted for common and military crimes for acts occasioned by the “war against terrorism” from May 1980 until June 1995. It also makes it practically impossible for victims of human rights violations to institute successful legal action from compensation. Such an amnesty prevents appropriate investigation and punishment of perpetrators of past human rights violations, undermines efforts to establish respect for human rights, contributes to an atmosphere of impunity among perpetrators of human rights violations, and constitutes a very serious impediment to efforts undertaken to consolidate democracy and promote respect for human rights and is thus in violation of article 2 of the [International] Covenant [on Civil and Political Rights]. In this connection, the Committee reiterates its view, as expressed in its General comment 20 (44), that this type of amnesty is incompatible with the duty of States to investigate human rights violations, to guarantee freedom from such acts within their jurisdiction, and to ensure that they do not occur in the future.”¹²

The Committee also expressed “serious concern” at the promulgation of the second Amnesty Law, and stated that “Decree Law 26,492 [the second Amnesty Law] and Decree Law 26,6181 (sic)[¹³] purport to divest individuals of the right to have the legality of the amnesty law reviewed in courts. With regard to article 1 of this law [Law 26,492], declaring that the Amnesty Law does not undermine the international human rights obligations of the State, the Committee stresses that domestic legislation cannot modify a State party’s international obligations under the Covenant.”¹⁴

¹¹ See UN Doc. E/CN.4/1996/4, para. 397, 25 January 1996.

¹² See UN Doc. CCPR/C/79/Add.67, para. 9, 25 July 1996.

¹³ The UN Human Rights Committee is here referring to Law N°26618 (See page 2 of this report and Appendix 4).

¹⁴ See UN Doc. CCPR/C/79/Add.67, para. 10, 25 July 1996.

The Committee recommended to the Government of Peru to take the necessary steps to “[...] restore the authority of the judiciary, give effect to the right to effective remedy under article 2 of the Covenant and thus overcome the prevailing atmosphere of impunity. [In addition,...] the Committee considers that the Amnesty laws violate the Covenant, [and] recommends that the Government of Peru review and repeal these laws to the extent of such violations. In particular, it urges the government to remedy the unacceptable consequences of these laws by, *inter alia*, establishing an effective system of compensation for the victims of human rights violations and by taking the necessary steps to ensure that the perpetrators of this violations do not continue to hold government positions.”¹⁵

The Committee also urges the Government of Peru to “[...] take effective measures to investigate allegations of summary executions, disappearances, cases of torture and ill-treatment, and arbitrary arrest and detention, to bring the perpetrators to justice, to punish them and to compensate victims. If allegations of such crimes have been made against members of the of the security forces, whether military or civilian, the investigations should be carried out by an impartial body that does not belong to the organization of the security forces themselves. Persons convicted of such crimes should be dismissed and, pending the outcome of the investigation, be suspended from office.”¹⁶

III. THE GOVERNMENT OF PERU RESPONDS TO UN EXPERTS

On 21 August 1995 Peru’s Minister of Foreign Affairs, Francisco Tudela, replied to the UN experts who sent the “joint urgent appeal” to the Government of Peru at the beginning of August 1995. In his communication the Minister of Foreign Affairs stated that the promulgation of the first Amnesty Law was “part of the process of pacification and complemented the repentance law which benefitted more than five thousand convicted terrorists by reducing their sentences or releasing them from prison”.¹⁷

The Minister of Foreign Affairs also informed the UN experts that the passing of the first Amnesty Law by the National Congress “does not contradict [international human rights] treaties, because the latter do not expressly prohibit the application of articles 102 and 139 of the Constitution of Peru.”¹⁸

¹⁵ See UN Doc. CCPR/C/79/Add.67, para. 21, 25 July 1996.

¹⁶ See UN Doc. CCPR/C/79/Add.67, para. 23, 25 July 1996.

¹⁷ Spanish original: “*parte del proceso de pacificación y como complemento de la ley de arrepentimiento, que benefició a más de cinco mil terroristas condenados y sentenciados y que comprendía tanto la reducción de penas como la excarcelación*”. (The translation into English is by Amnesty International.)

¹⁸ Spanish original: “*no sólo no contradice los tratados [internacionales de derechos humanos] [...], sino que éstos no prohíben expresamente la aplicación de los artículos 102 °y 139 °de la Constitución del Perú*.” (The translation into English is by Amnesty International.)

During the Human Rights Committee's 57th Session, in July 1996, the Peruvian delegation presenting Peru's third periodic report was headed by the Minister of Justice, Carlos Hermoza Moya. The Peruvian delegation informed the Committee that: "An amnesty can be defined mainly as a political measure which signifies forgetting a criminal act in order to reestablish calm and social harmony"¹⁹

In addition, the Peruvian delegation informed the Committee that: "In relation to the negative effect the amnesty law had on investigations, mention should be made that this is a law of a general nature, which like every amnesty law extinguishes any action undertaken as well as sentences handed down [...]; therefore it is obvious that investigations which were being carried out on the date the present law was promulgated, were rendered ineffective."²⁰

IV. PERU'S HUMAN RIGHTS NGOs AND THE AMNESTY LAWS

Peru's human rights non-governmental organizations (NGOs) have also condemned both Amnesty Laws. Indeed the *Coordinadora Nacional de Derechos Humanos*, CNDDHH, an independent organization which brings together 47 non-governmental human rights groups in Peru, stated in June 1995 that with the promulgation of the first amnesty law "crimes against human rights committed since 1980 are left with impunity, by avoiding to investigate and bring to justice those who committed atrocities such as the 'disappearance' of over 5,000 people, the thousands who were extrajudicially executed, and the indiscriminate killings of entire communities in which even children and old people died."²¹

¹⁹ Spanish original: "*La Amnistía puede ser definida como una medida prevalentemente política que significa el olvido de un hecho delictivo a fin de restablecer la calma y la concordia social.*" See written answers by Peru's delegation in response to the Human Rights Committee's *List of issues to be taken up in connection with the consideration of the third periodic report of Peru*, UN Doc. M/CCPR/C/57/LST/PER/4, 8 July 1996. (The translation into English is by Amnesty International.)

²⁰ Spanish original: "*En cuanto a un presunto impacto negativo de la ley de amnistía en las investigaciones, cabe precisar que se trata de una ley de carácter general, que como toda ley de amnistía extingue la acción y la pena, [...]; en consecuencia es obvio que deja sin efecto todas las investigaciones practicadas a la fecha de promulgación de la presente ley.*" *Ibid.*, footnote 17. (The translation into English is by Amnesty International.)

²¹ Spanish original: "*se quiere dejar en la impunidad los crímenes contra los derechos humanos cometidos desde 1980, evitando que se investigue y haga justicia con aquellos que cometieron atrocidades: la desaparición de más de 5 mil personas, los miles de ejecutados extrajudicialmente, y las matanzas indiscriminadas de comunidades enteras, en las que murieron incluso niños y ancianos*". Press Release by the CNDDHH, 14 June 1995. (The translation into English is by Amnesty International.)

V. AMNESTY INTERNATIONAL AND PERU'S AMNESTY LAWS

Peru's two Amnesty Laws, which have the effect of preventing the emergence of the truth and subsequent accountability before the law, are unacceptable. Amnesty International believes that impunity negates the fundamental values of truth and justice and could lead to further human rights violations in the country. Victims of human rights violations and their relatives have the right to know the truth and to be given fair and adequate redress for the suffering to which they have been subjected.

Amnesty International condemns the promulgation of both Amnesty Laws. Since June 1995, the organization has been urging the Peruvian authorities to repeal those articles of the Amnesty Laws which benefit human rights violators and to ensure that victims of human rights violations and their families receive adequate compensation.

VI. AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE UN SUB-COMMISSION

Amnesty International urges the experts on the Sub-Commission to adopt a resolution calling upon the Government of Peru to:

- repeal the articles in the Amnesty Laws which prevent the emergence of the truth about human rights violations and accountability for these violations;
- reopen investigations of human rights violations closed as a result of the Amnesty Laws;
- conduct thorough, impartial and independent investigations, in accordance with international standards, such as the International Covenant on Civil and Political Rights; the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the UN Declaration on the Protection of All Persons from Enforced Disappearance; and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;
- bring those responsible for human rights violations to justice;
- compensate the victims or their families;
- implement the recommendations made by the Human Rights Committee at its 57th Session; and
- report to the UN Commission on Human Rights at its 53rd Session in March 1997 on the measures it has taken on these issues.

APPENDIX 1

*FIRST AMNESTY LAW OF 14 JUNE 1995
(ENGLISH TRANSLATION)*

LAW N°26479²²

THE PRESIDENT OF THE REPUBLIC

WHEREBY:

The Democratic Constituent Congress has passed the following Law:

THE DEMOCRATIC CONSTITUENT CONGRESS;

Has passed the following law:

Article 1. Grant a general amnesty to the Military, Police or Civilian personnel, whatever their Military Police or Official status, who face a formal complaint, investigation, criminal charge, trial, or conviction for common or military crimes, whether under the jurisdiction of the civil or military courts, in relation to all events derived or originated from, or a consequence of, the fight against terrorism, and which may have been committed either individually or by two or more persons between May 1980 and the date on which this law is promulgated.

Article 2. Grant a general amnesty to Active, Reserve or Retired military personnel who have been denounced, tried or convicted in connection with the events of 13 November 1992.

Article 3. Grant a general amnesty to Active, Reserve or Retired military personnel who have been denounced, tried or convicted for the crimes of Disloyalty, Insult to the Nation and to the Armed Forces, in connection with the recent conflict on the northern border.

Article 4. The Judiciary, Civilian Courts, Military Courts, and the Executive, will be responsible for and immediately proceed to annul all police, judicial and criminal records which may have been filed against those persons pardoned by this law and not to enforce any form of detention which could affect their liberty. Equally, they will proceed to release those pardoned who are currently under arrest, detention, serving a prison sentence or any other sentence which restricts their liberty, and make all the administrative steps required for such releases as permanent.

²² Source: "Normas Legales", *Diario Oficial El Peruano*, Lima, 15 June 1995. The translation is by Amnesty International.

Article 5. The Military, Police or Civilian personnel who face a formal complaint, investigation, judicial process or conviction for the crimes of Illegal Drug Trafficking, of Terrorism and of Treason as regulated by Law N°25,659, is excluded from the provisions in this law.

Article 6. The events or crimes covered by the amnesty law, all rulings in favour of definitively closing a judicial process, and acquittals, are not subject to investigation, inquiry or summary proceedings; all judicial cases, whether ongoing or executed, remaining definitively closed.

Article 7. This Law will come into effect the day following its publication in the Official Gazette *El Peruano*.

Inform the President of the Republic for its promulgation

Lima, the fourteenth day of June of nineteen ninety five

JAIME YOSHIYAMA
President of the Democratic Constituent Congress

VICTOR JOY WAY ROJAS
Second Vice-president of the Democratic Constituent Congress

TO THE CONSTITUTIONAL PRESIDENT OF THE REPUBLIC

WHEREFORE:

Order that it be published and observed:

Passed in Government House, Lima, on the fourteenth day of June of nineteen ninety-five

ALBERTO FUJIMORI FUJIMORI
Constitutional President of the Republic

EFRAIN GOLDENBERG SCHREIBER
President of the Council of Ministers

**FIRST AMNESTY LAW OF 14 JUNE 1995
(SPANISH TRANSCRIPTION)**

LEY N°26479²³

EL PRESIDENTE DE LA REPÚBLICA

POR CUANTO:

El Congreso Constituyente Democrático ha dado la Ley siguiente:

EL CONGRESO CONSTITUYENTE DEMOCRÁTICO;

Ha dado la ley siguiente:

Artículo 1°.- Concédase amnistía general al personal Militar, Policial o Civil, cualquiera que fuere su situación militar o Policial o Funcional correspondiente, que se encuentre denunciado, investigado, encausado, procesado o condenado por delitos comunes y militares en los fueros Común o Privativo Militar, respectivamente, por todos los hechos derivados u originados con ocasión o como consecuencia de la lucha contra el terrorismo que pudieran haber sido cometidos en forma individual o en grupo desde mayo de 1980 hasta la fecha de la promulgación de la presente Ley.

Artículo 2°.- Concédase amnistía general al personal militar en situación de Actividad, Disponibilidad o Retiro y civil implicados, procesados o condenados por los sucesos del 13 de noviembre de 1992.

Artículo 3°.- Concédase amnistía general al personal militar en situación de Actividad, Disponibilidad o Retiro denunciado, procesado o condenado o los delitos de Infidencia, Ultraje a la Nación y a las Fuerzas Armadas, con ocasión del reciente conflicto en la frontera norte.

Artículo 4°.- EL Poder Judicial, Fuero Común, Fuero Privativo Militar y el Ejecutivo, procederán en el día, bajo responsabilidad, a anular los antecedentes policiales, judiciales o penales, que pudieran haberse registrado contra los amnistiados por esta Ley, así como dejar sin efecto cualquier medida restrictiva de la libertad que pudiera afectarles. Procederán igualmente a excarcelar a los amnistiados que estuvieran sufriendo arresto, detención, prisión o pena privativa de la libertad, quedando subsistentes las medidas administrativas adoptadas.

Artículo 5°.- Esta excluido de la presente ley el personal Militar, Policial o Civil que se encuentra denunciado, investigado, encausado o condenado por los delitos de Tráfico Ilícito de Drogas, de Terrorismo y Traición a la Patria regulado por la Ley N°25659.

²³ Fuente: "Normas Legales", Diario Oficial *El Peruano*, Lima, 15 de junio de 1995.

Artículo 6°.- Los hecho o delitos comprendidos en la presente amnistía, así como los sobreseimientos definitivos y las absoluciones, no son susceptibles de investigación, pesquisa o sumario; quedando, todos los casos judiciales, en trámite o en ejecución, archivados definitivamente.

Artículo 7°.- La presente Ley entrará en vigencia el día siguiente de su publicación en el Diario Oficial *El Peruano*.

Comuníquese al Presidente de la República para su promulgación.

En Lima, a los catorce días del mes de junio de mil novecientos noventa y cinco.

JAIME YOSHIYAMA
Presidente del Congreso Constituyente Democrático

VICTOR JOY WAY ROJAS
Segundo Vicepresidente del Congreso Constituyente Democrático

AL SEÑOR PRESIDENTE CONSTITUCIONAL DE LA REPÚBLICA

POR TANTO:

Mando se publique y cumpla

Dado en la Casa de Gobierno, en Lima, a los catorce días del mes de junio de mil novecientos noventa y cinco

ALBERTO FUJIMORI FUJIMORI
Presidente Constitucional de la República

EFRAÍN GOLDENBERG SCHREIBER
Presidente del Consejo de Ministros

APPENDIX 2

*SECOND AMNESTY LAW OF 28 JUNE 1995
(ENGLISH TRANSLATION)*

LAW N°26,492²⁴

THE PRESIDENT OF THE REPUBLIC

WHEREBY:

The Democratic Constituent Congress has passed the following Law:

THE DEMOCRATIC CONSTITUENT CONGRESS;

Has passed the following law:

Article 1. Let it be understood that, in accordance with provisions enshrined in article 139, section 3 of the Constitution, the amnesty granted by Law N°26479 does not constitute an interference in the functioning of the judiciary, nor does it undermine the duty of the State to respect and guarantee the full enforcement of those human rights as recognized by article 44 of the Constitution and by, among other human rights Treaties, Article 1, Section 1, of the American Convention on Human rights.

Article 2. Let it be stated that the amnesty referred to above, insofar as it is a right of grace which can only be granted exclusively by Congress, in accordance with provisions in article 102, section 6, of the Constitution, is not subject to review by a judicial authority.

Article 3. Article 1 of Law N°26479 is to be interpreted in the sense that all Judicial Bodies are under the obligation to apply the general amnesty to all events derived or originated from, or a consequence of, the fight against terrorism, whether committed individually or by two or more persons between May 1980 and 14 June 1995, and whether or not the military, police or civilian personnel implicated, face a formal complaint, investigation, is subject to criminal proceedings, or has been convicted; all judicial cases, whether ongoing or executed, remain definitively closed in accordance with article 6 of the above mentioned Law.

Article 4. This Law will come into effect the day following its publication in the Official Gazette *El Peruano*.

Inform the President of the Republic for its promulgation

²⁴ Source: "Normas Legales", *Diario Oficial El Peruano*, Lima, 2 July 1995. The translation is by Amnesty International.

Lima, the twenty eighth day of June of nineteen ninety five

JAIME YOSHIYAMA
President of the Democratic Constituent Congress

VICTOR JOY WAY ROJAS
Second Vice-president of the Democratic Constituent Congress

TO THE CONSTITUTIONAL PRESIDENT OF THE REPUBLIC

WHEREFORE:

Order that it be published and observed:

Passed in Government House, Lima, on the thirtieth day of June of nineteen ninety-five.

ALBERTO FUJIMORI FUJIMORI
Constitutional President of the Republic

EFRAIN GOLDENBERG SCHREIBER
President of the Council of Ministers

**SECOND AMNESTY LAW OF 28 JUNE 1995
(SPANISH TRANSCRIPTION)**

LEY N°26492²⁵

EL PRESIDENTE DE LA REPÚBLICA

POR CUANTO:

El Congreso Constituyente Democrático ha dado la Ley siguiente:

EL CONGRESO CONSTITUYENTE DEMOCRÁTICO;

Ha dado la ley siguiente:

Artículo 1°.- Entiéndase que la amnistía otorgada por la Ley N°26479, según lo dispuesto en el inciso 3 del Artículo 139° de la Constitución Política, no constituye interferencia en el ejercicio de la función jurisdiccional ni vulnera el deber del Estado de respetar y garantizar la plena vigencia de los derechos humanos, reconocido por el Artículo 44° de la Constitución Política y, entre otros Tratados sobre la materia, el numeral 1 del Artículo 1° de la Convención Americana sobre Derechos Humanos.

Artículo 2°.- Precísase que dicha amnistía, en cuanto es un derecho de gracia cuya concesión corresponde exclusivamente al Congreso, de conformidad con lo dispuesto en el inciso 6 del Artículo 102° de la Constitución Política, no es revisable en sede judicial.

Artículo 3°.- Interpretese el Artículo 1° de la Ley N°26479 en el sentido que la amnistía general que se concede es de obligatoria aplicación por los Órganos Jurisdiccionales y alcanza a todos los hechos derivados u originados con ocasión o como consecuencia de la lucha contra el terrorismo cometidos en forma individual o en grupo desde el mes de mayo de 1980 hasta el 14 de Junio de 1995, sin importar que el personal militar, policial o civil involucrado, se encuentre o no denunciado, investigado, sujeto a proceso penal o condenado; quedando todos los casos judiciales en trámite o en ejecución archivado definitivamente de conformidad con el Artículo 6° de la Ley precitada.

Artículo 4°.- La presente Ley entrará en vigencia al día siguiente de su publicación en el Diario Oficial *El Peruano*.

Comuníquese al Presidente de la República para su promulgación.

En Lima, a los veintiocho días del mes de junio de mil novecientos noventa y cinco.

²⁵ Fuente: "Normas Legales", Diario Oficial *El Peruano*, Lima, 2 de julio de 1995.

JAIME YOSHIYAMA
Presidente del Congreso Constituyente Democrático

VICTOR JOY WAY ROJAS
Segundo Vicepresidente del Congreso Constituyente Democrático

AL SEÑOR PRESIDENTE CONSTITUCIONAL DE LA REPÚBLICA

POR TANTO:

Mando se publique y cumpla.

Dado en la Casa de Gobierno, en Lima, a los treinta días del mes de junio de mil novecientos noventa y cinco.

ALBERTO FUJIMORI FUJIMORI
Presidente Constitucional de la República

EFRAÍN GOLDENBERG SCHREIBER
Presidente del Consejo de Ministros

APPENDIX 3

PHOTOCOPY OF LAW N°26592

APPENDIX 4

PHOTOCOPY OF LAW N°26618