

EXTERNAL (for general distribution)

AI Index: AMR 46/58/92

Distr: SC/CO

Amnesty International
International Secretariat
1 Easton Street
London WC1X 8DJ
United Kingdom

December 1992

£PERU:@TORTURE OF COMMUNITY LEADERS

Wigberto Vásquez Vásquez, 31, teacher, President of the Comité de Defensa de los Intereses del Pueblo de San Ignacio

Plácido Alvarado Campos, 58 President of the Federación Provincial de Rondas Campesinas y Urbanas

Víctor Morales Laban, 40, President of Federación Unificada de Campesinos y Rondas de San Ignacio, FUCASI

Crisanto Velásquez Flores, 40, leader of FUCASI

Guillermo Granda Rodríguez, 32, President of the Comité de Productores Agrarios de San Ignacio

Guillermo Oyola Cornejo, 48, Secretary of the Federación Provincial de Rondas Campesinas y Urbanas de San Ignacio

Javier García Huamán, 34, farmer

Benjamín García Huamán, 33, farmer

Daniel Cruz Bautista, 34, farmer

Samuel Huamán Huamán, 53, farmer

Amnesty International is concerned about the reported torture of the above mentioned leaders of the *Comité de Defensa de los Bosques de San Ignacio*, Committee for the Defence of the San Ignacio Woods.

On 27 June 1992 the police detained at their homes or work places the ten members of the *Comité de Defensa de los Bosques de San Ignacio*, an organization created to oppose the felling of trees and other works initiated by INCAFOR S.A., a wood producing enterprise operating in the San Ignacio woods, San Ignacio province, Cajamarca department. The detentions followed a confrontation between those who oppose the operating of INCAFOR S.A. and people working at the station, which occurred the day before the detentions and which resulted in the killing of two of the station's workers. The detainees are being charged with the killing of these workers.

According to written testimonies of some of the detainees, the detentions, interrogations and other legal procedures were carried out with numerous irregularities that affected the physical safety and rights of the detainees. The reports indicate that when carrying out the detentions the police wore hoods and used vehicles of the INCAFOR S.A. enterprise. The prisoners were reportedly ill-treated and most of them subjected to torture during interrogation at the San Ignacio police headquarters. One of them stated that when he arrived at the police station he "saw the gentleman prosecutor [señor fiscal] there....and I heard him saying, 'these are terrorists kick the shit out of them'" [estos son terroristas, saquenles la mugre]. He also described the torture he was subjected to: "...my arms were tied behind my back with some wet pieces of cloth and then they hung me....they kicked me, they beat me on the ribs, the head...All I wanted was to die, I didn't know why they were

beating me, they asked me if I was responsible for the deaths, I did not know what they were talking about, they asked me if I was responsible for assaults, I did not understand why they were asking me this..." ("Me amarraron con unos trapos mojados los brazos para atrás y allí me congaron...") The other detainee said that while at the San Ignacio police station he had his head submerged in a [water] cylinder some eight times..."trying to force me to admit responsibility...and saying that nothing would happen to me, but as I am innocent I didn't accept those charges". One of the detainees said that although he was ill-treated he was not tortured. He saw, however, how two other detainees had had their ribs broken. After the interrogation, the detainees were taken to the Pisci prison, in Lambayeque, in the department of Chiclayo.

On 30 June, relatives of the detainees presented a *habeas corpus* petition to the San Ignacio court which was accepted by judge Dr. Emiliano Pérez Acuña. However, when the judge tried to visit the detainees to examine them he was prevented from doing so by the police. A report (*acta de constatación*) of 7 July, signed by judge Dr Emiliano Pérez Acuña, states that when Dr Acuña went with two medical doctors to examine detainee Crisanto Velásquez Flores, a policeman: "in an arrogant way towards both, the judge and the secretary, ordered the immediate detention of the medical doctors.....and without any respect or moderation for the undersigned judge of the penal court, began to insult him and push him on to the street, in the presence of several policemen..."

On 14 July the ten detainees plus five other local leaders for whom detention orders had been issued, but who had so far evaded detention, were charged under article N° 2 of the Decree-Law 25,475, (anti-terrorist), with homicide, wounds and damages. They were brought to trial at a special tribunal in Chiclayo which deals with terrorism.

The investigative stage of the trial ended with two reports: one from Dr. César Augusto Celis Zapata the prosecutor of the 8th *Fiscalía Provincial de Chiclayo*, Provincial Prosecutor's Office of Chiclayo and one from the Penal Judge Dra. Margarita Zapata Cruz. The prosecutor concluded that a trial should take place as there was sufficient evidence of a crime of terrorism and of the responsibility of the detainees. The report of the judge concluded that although an assault had taken place at the INCAFOR S.A. enterprise, and that two men had been killed, there was no crime of terrorism and the responsibility of the Committee members had not been established.

Amnesty International and Peruvian human rights organizations believe that the ten detainees may have been charged with terrorism for no other reason than their opposition to the industrial exploitation of the San Ignacio woods.

The case is now in the Superior Court of Chiclayo before being transferred to the Superior Prosecuting Dean, (*Fiscal Superior Decano*). The latter will then designate the Superior Prosecutor (*Fiscal Superior*) who will subsequently forward it to the Tribunal. In accordance with the new terrorist legislation the detainees may receive sentences varying from 20 to 30 years in prison.

Comité de Defensa de los Bosques de San Ignacio

The San Ignacio woods are in San Ignacio province, department of Cajamarca. These woods, which measure 49,000 hectares, are particularly important for ecological reasons as they ensure

appropriate climatic conditions for the region as well as the micro-climate that allows the growth of unique animal and vegetable species.

The restoration of these woods is believed to be impossible due to the nature of the soil and to the length of time required for some of the species to grow.

At the beginning of 1991, the Forestry District of San Ignacio (*Distrito Forestal de San Ignacio*) granted private contracts for wood producing in the area of Chuspe. Subsequently the INCAFOR S.A. enterprise was sub-contracted for the sawing, drying and transport of the wood.

The citizens of San Ignacio reacted to the initiation of the works by the INCAFOR S.A. enterprise by setting up the *Comité de Defensa de los Bosques de San Ignacio*, Defence Committee of the San Ignacio Woods, which was initially supported by the local authorities, who issued a resolution declaring the San Ignacio woods a protected region and cancelling the above mentioned contracts. In spite of this, INCOFAR S.A. went ahead with the works by building access roads to the woods. An *amparo* action¹ was presented by the people of San Ignacio, that was declared justified (*fundada*) by the court, who ordered the stopping of the works. The Superior Court of Chiclayo, to whom the appeal was presented dismissed the *amparo*. The case is presently at the Supreme court for decision.

GENERAL BACKGROUND

A pattern of human rights violations by members of the security forces has been documented by Amnesty International since January 1983, following the placing of state of emergency zones under the political-military control of the armed forces. Since then the organization has documented thousands of cases of "disappearance" following arrest, extrajudicial executions, torture and arbitrary arrest. More recently, Amnesty International has received reports of members of the opposition being charged with terrorism, or apology for terrorism for no other reason than their opposition to the government, their denouncing human rights violations or for exercising their right to freedom of expression or for offences related to common crime.

Despite repeated statements made since July 1990 by President Alberto Fujimori that his government is pursuing a policy of full respect for human rights, the pattern of violations has been maintained throughout his administration and a sense of impunity continues to be enjoyed by members of the security forces.

On 5 April 1992 President Alberto Fujimori broadcast a speech to the nation in which he announced the immediate dissolution of Congress and the setting up of a transitional, executive-led Government of Emergency and National Reconstruction [for tr: Gobierno de Emergencia y Reconstrucción Nacional]. In his speech the President also announced that the judiciary, Public Ministry, Congress and the Constitution were to be comprehensively reformed. In the wake of the announcement the judiciary and Public Ministry were effectively closed for a period of four weeks, during denunciations of human rights violations and *habeas corpus* petitions could not be filed with the authorities. The dissolution of Congress meant that several commissions in the Chamber of Deputies and Senate with a responsibility for investigating human rights violations and the extent of political violence in Peru were prevented from continuing with their work.

¹Amparo action: action for the protection of constitutional rights

Since the April announcement President Fujimori and his Council of Ministers [for tr. Consejo de Ministros], with the full political backing of the Armed Forces Joint Command [for tr. Comando Conjunto de las Fuerzas Armadas], has ruled the country by Decree Law. The new Decree Laws have included new counter-insurgency legislation designed to widen the legal definition of "acts of terrorism", expedite the judicial handling of cases in which the accused have been charged under the anti-terrorism laws, and lengthen the terms of imprisonment for those found guilty.

The new anti-terrorist legislation includes Decree Law N° 25,475 issued on 6 May 1992. This law specifies a wide range of criminal acts as terrorist and for which the penalties range from five years to life. On 13 August 1992 Law N°25659, which defines the crime of treason [for tr. tipifica el delito de traición a la patria], was issued. Article 6 of this law states that at no stage of police and judicial procedures involving those charged under the provisions made in Decree Law N° 25475 and 25659 may a petition for *habeas corpus* be filed in favour of the defendant. Civilians accused of treason are tried by military tribunals and those found guilty are sentenced to life imprisonment. Since this law came into effect several people have been detained, charged, tried and convicted on charges of treason.

The secret nature of trials conducted under the military system of justice precludes the possibility of independent observers having access to the trials. However, on the basis of information received from independent Peruvian jurists and lawyers working for human rights organizations in Peru, Amnesty International believes that the measures put into effect by President Fujimori's anti-terrorist legislation are conducive to the holding of trials in which the defendants' rights are violated. In particular Amnesty International is concerned that the suspension of the right to *habeas corpus*, the periods of time allowed for the preparation, hearing, conviction, sentencing and appeals; and the competence, independence and impartiality of military tribunals handling cases in which civilians are tried for treason contribute to the serious erosion of standards enshrined in international human rights treaties which Peru has ratified.

In October President Fujimori announced publicly that the government was to take the necessary steps to withdraw its obligations to abide by the clauses of the American Convention on Human Rights which prohibit the extension of the death penalty. Peru ratified the Convention in 1978. The President and other representatives of the government have stated that they advocate that those convicted of treason under the new anti-terrorist legislation should be sentenced to death.

Amnesty International believes that by taking such a step the Government of Peru would seriously undermine the protection of the right to life -- one of the central tenets of the Convention -- and the spirit in which the American System for the protection of human rights has been strengthened over the past two decades.

Atrocities by the armed opposition group [for tr. grupo alzado en armas] *Partido Comunista del Peru (Sendero Luminoso)*, PCP, Communist Party of Peru (Shining Path), including the execution-like killing of captives and first reported in 1980, continued to be widespread throughout 1992. Since 1983 Amnesty International has repeatedly and firmly condemned the torture and killing of people held captive by the PCP and the *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement. Following a decision taken by Amnesty International in September 1991 to extend its condemnation of such abuses, the organization has expressed its unqualified opposition to the arbitrary and deliberate killing by these groups of defenceless civilians not directly involved in the armed conflict, and of the killing of members of

the security forces who are *hors de combat*, or who have been incapacitated, have surrendered or been detained. By the end of October 1992 these atrocities, including the execution-like killing of captives, continues to be widely perpetrated by the PCP.