

amnesty international

PERU

ATTACKS ON HUMAN RIGHTS DEFENDERS 1988 - 1990

JUNE 1990

SUMMARY

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Human rights violations in Peru have shown a consistent rise over the past two years, especially in areas under state of emergency and military control. In 1989 alone some 450 people "disappeared" after being detained. Numerous lawyers, teachers, trade unionists and peasants are said to have been extrajudicially executed. Torture, including rape, by the security forces continues to be reported. Many prisoners are held on charges of "terrorism" said to be based on statements extracted under torture.

Human rights organizations and their staff have been increasingly targeted over the past two years for their work on behalf of victims of human rights violations. Their work has been obstructed by arrests, death threats, "disappearances" and, in some cases, extrajudicial executions. Amnesty International has received numerous reports of violations of the rights of those members of the community who have chosen to actively defend rights enshrined in the Peruvian Constitution and in national and international law.

This high incidence of violence has occurred in the context of a campaign of assaults, sabotage and execution-style killings by armed opposition groups, especially the Partido Comunista del Perú "Sendero Luminoso", Communist Party of Peru "Shining Path". Shining Path is active in much of the country and is frequently reported to murder its captives, including members of peasant communities, members of the security forces and government officials, agronomists, engineers and members of legal political parties. Human rights groups estimate that as many as half of the approximately 3,200 deaths caused by political violence reported in 1989 were attributable to Shining Path. An increase in the group's violent activities was reported before the November 1989 municipal elections and the April 1990 general elections; Shining Path called for a boycott of the the elections and threatened to kill candidates who did not resign.

Amnesty International is aware of the gross abuses by Shining Path, including torture and killing of prisoners, and unequivocally condemns such practices. However, it works within the framework of international law as it pertains to governments' human rights obligations. It does not treat non-governmental groups as if they had the status of governments unless they have de facto attributes of a government, including the exercise of effective power over territory and population. While this in no way

exonerates opposition groups from a responsibility to respect human rights, under international law the obligation for ensuring that respect falls on governments.

The official response to proliferating political violence has been the imposition and expansion of states of emergency restricting civil rights and delegating to the Armed Forces Joint Command political and military authority in areas under the emergency measures. Although under the Constitution rights such as the right to habeas corpus, the right to communicate with a lawyer and the right to demand an immediate medical examination may not be suspended under emergency regulations, in practice these rights are not observed, and representatives of the Public Ministry (headed by the Attorney General) appear increasingly unwilling or unable to discharge their responsibility to protect human rights. The armed forces routinely deny access by public prosecutors and the judiciary to military camps and bases where prisoners are known to be held. Military courts exercise jurisdiction over police and military personnel but are not known to have punished gross human rights violations by forces on active service in the emergency zones, even in cases of mass killings where investigators have concluded that the armed forces were responsible.

Over the past two years Amnesty International has repeatedly called on the Peruvian authorities to investigate the threats and attacks on human rights organizations and their representatives, including cases of "disappearances" and extrajudicial executions. The organization has called for the perpetrators to be brought to justice. On 4 May 1990 the Secretary General of Amnesty International met the Peruvian Minister of the Interior, Agustín Mantilla and stressed the importance of guaranteeing the safety and security of human rights defenders.

On 23 May 1990 Amnesty International wrote to the Ambassadors of the Member States of the Organization of American States (OAS), including the Peruvian Ambassador. It called on the General Assembly of the OAS, through its Ambassadors, to ensure that their respective governments take immediate steps to prevent any future violations directed at human rights defenders.

This summarizes a seven-page document, PERU: ATTACKS ON HUMAN RIGHTS DEFENDERS 1988-1990 (AI Index: AMR 46/39/90), issued by Amnesty International in JUNE 1990. Anyone wanting further details or to take action on this issue should consult the full document.

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PERU: ATTACKS ON HUMAN RIGHTS DEFENDERS 1988-1990

1. Introduction

Over the past eight years at least 3,000 people have "disappeared" in Perú after detention by the security forces. Thousands more appear to have been killed by government forces; sometimes after being detained and tortured. Violent abuses by armed opposition groups, especially by the Partido Comunista del Perú "Sendero Luminoso", Communist Party of Peru "Shining Path", including torture, mutilation and murder of captives, have also risen. Official statistics put the number of killings in the conflict at approximately 17,000.

During 1989 alone some 450 people "disappeared" after arrest, and numerous human rights lawyers, teachers, trade unionists and peasant community leaders were said to have been extrajudicially executed. Torture, including rape, by the military and police has continued to be reported throughout the country, and many prisoners are held on charges of "terrorism" often said to be based on statements extracted under torture.

A campaign of assaults, sabotage and execution-style killings by clandestine opposition groups, a high incidence of narcotics-related crime and a severe economic crisis have provided the context of gross human rights violations as President Alan García approaches the end of his six-year term. The government's response to proliferating political violence has been the imposition of regularly renewed states of emergency in many areas, restricting civil rights and delegating political and military authority to the Armed Forces Joint Command. States of emergency were in force in the departments of Ayacucho, Apurímac, Huancavelica, San Martín, Huánuco, Pasco and Junín, as well as the provinces of Lima and Callao, in January 1989. By the end of 1989 the state of emergency had been extended to the department of Ucayali and the provinces of Oyón, Barranca and Huaura in Lima department.

The norms under which armed forces' political-military commands assumed virtual autonomy from civil authority, are set out in Law 24.150 of June 1985. In practice the broad powers extended to the armed forces allow them to carry out detentions without notifying civil authorities or accounting for the fate of prisoners. The armed forces routinely deny access by public prosecutors and the judiciary to military camps and bases in which prisoners are known to be held. Military courts exercise jurisdiction over police and military personnel but are not known to have punished gross human rights violations by forces on active service in the emergency zones.

Legal machinery to redress gross human rights violations has become increasingly inoperative. Under the Peruvian Constitution the rights which

may not be suspended under states of emergency include the right to be informed immediately and in writing of the reasons for detention; the right to communicate with a lawyer; the right of the detainee's relatives to be informed of his/her place of detention; the right to demand an immediate medical examination where there are claims that ill-treatment may have taken place; and the right not to be compelled to make statements against oneself or one's relatives. In practice, however, these provisions are not observed. Although the right to habeas corpus remains in force, the courts in the emergency zones generally do not implement habeas corpus even to safeguard the non-derogable rights to life and personal security. The Public Ministry, headed by the Attorney General, has been increasingly reluctant to discharge its constitutional responsibility to defend human rights, fulfilled in the past largely through its public prosecutors who receive complaints and are empowered to take steps to remedy abuses. Indeed, it seems sometimes to have actively prevented the discharge of that responsibility: since 1988 two successive Attorney Generals have withdrawn resources and political support for investigations in the emergency zones and transferred or dismissed prosecutors who have brought criminal charges against army officers.

The obligations of the Peruvian government to observe the rights of all peoples in times of emergency are further enshrined in Article 4 of the International Covenant on Civil and Political Rights which Peru ratified in 1978. Article 4 states: "In time of public emergency which threatens the life of the nation the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law..."

Since July 1988 many journalists, lawyers, trade union leaders, human rights activists and individuals identified with the legal opposition parties, have been the target of death threats and killings attributed by the security services to the Comando Rodrigo Franco (CRF), the Rodrigo Franco Command. Anonymous communiqués were released in the capital, Lima, on 28 July 1988, saying that CRF is an independent group created to "avenge" actions by Shining Path. Responsibility for the murder of Dr Manuel Febres Flores, a defence lawyer of an alleged Shining Path leader was claimed in its name. Actions followed in the name of Rodrigo Franco throughout much of the country within a matter of days - particularly in areas under tight military control. Eleven killings perpetrated in the name of the CRF were reported during 1989; and death-threats continue to be made against prominent human rights, trades union and party-political activists.

Available information on the actions attributed to the CRF suggest that in different areas, different government forces are responsible. While in areas administered by the military, evidence points to the direct responsibility of zone army chiefs for the actions claimed by the CRF, in other areas, the press and human rights organizations have linked the CRF actions to the police or civilians, members of the APRA party.

2. The Context of Violence

Amnesty International is fully aware of the context in which gross human rights violations occur. In Peru, this includes escalating violence on the part of armed opposition groups, a high incidence of criminality related to narcotics trafficking, and a severe economic crisis.

Shining Path remains active throughout much of the country. Human rights groups estimate that as many as half of the approximately 3,200 deaths arising from political violence which were reported in 1989 were attributable to Shining Path. No prisoners are acknowledged to be held by its forces, which continue regularly to murder captives in summary, execution-style killings, sometimes after torture and mock trials. Many of its victims have been civilians, including prominent members of the ruling Alianza Popular Revolucionaria Americana (APRA) and the opposition left-wing Izquierda Unida (United Left) coalition, agronomists, engineers and others working on government-sponsored projects, and members of peasant communities, cooperatives and labour organizations who refused to support them. Others killed have included police and military personnel whom it captured or who were incapacitated by wounds.

Shining Path demanded a boycott of the November 1989 municipal elections and threatened to murder candidates and voters alike: over 300 people were reported to have been killed by them in October alone. Shining Path is also said to have murdered over 50 mayors in the emergency zones since 1982. In the run up to the April 1990 general elections several parliamentary candidates were reportedly assassinated by Shining Path, and a number of bombs were planted in public places, causing a number of casualties. It was claimed that 39 people had been killed by Shining Path during the last week of March alone.

Amnesty International, however, works within the framework of international law as it concerns the human rights obligations of governments. The organization reports on situations in which non-governmental groups are responsible for the torture or killing of prisoners, and it unequivocally condemns such practices. However, it does not treat non-governmental groups as if they had the status of governments or address them unless they have de facto attributes of a government, including the exercise of effective power over substantial territory and population. While this in no way exonerates opposition groups from a responsibility to respect human rights, under international law the obligation for ensuring such respect falls upon governments.

On 14 July 1989 Peru ratified the two Protocols additional to the Geneva Conventions which relate to the protection of victims of international and non-international armed conflicts (Protocols I and II respectively). Amnesty International welcomed this step as a sign that the government intends to ensure that its security forces conduct themselves in accordance with the international obligations imposed by the Protocols and other international instruments to which Peru is a party. However, to date there has been no evidence to suggest that this intention has been translated into a program to combat human rights violations carried out in the course of the counterinsurgency campaign. Amnesty International does not question the right of the Peruvian Government to take action to control the activities of armed opposition groups; however, abuses by the security forces such as torture, "disappearance" and summary execution violate fundamental rights which can never be suspended, whatever the behaviour of armed opposition groups.

3. Attacks on Human Rights Defenders

The work of human rights defenders has become increasingly difficult in this context of spiralling violence. Since July 1988 activists upholding national and international human rights standards have come under increasing secret surveillance and their work has been obstructed by arrests, death threats, "disappearances" and, in some cases, extrajudicial executions.

In September 1988 two leading personalities working for the defence of human rights in the department of Ayacucho were threatened and harassed. In the early hours of 22 September members of the Peruvian Intelligence Police (PIP), burst into the house of Angélica Mendoza de Azcarsa, the elderly president of ANFASEP, Asociación Nacional de Familiares de Secuestrados y Detenidos Desaparecidos en la Zona Declarada en Estado de Emergencia del Perú, National Association of Relatives of "Disappeared" in the Emergency Zones in Peru. The police claimed to be looking for people unknown to Angélica Mendoza. The raid followed an incident on 4 August in which a man reportedly entered the ANFASEP offices threatening Angélica Mendoza and another member of the organization, telling them to stop the work they were doing otherwise she would "disappear" or die.

On 24 September a dynamite explosion took place at Dr Mario Cavalcanti Gamboa's law office, followed by a second explosion in the garage of his home. Leaflets signed by the CRF, accusing Dr Cavalcanti of supporting terrorism, were pushed under his door. He was given 45 days to leave Ayacucho.

The threats and attacks on ANFASEP and Dr Cavalcanti were preceded by a wave of harassment against human rights defenders in the department of Ayacucho. On 9 July 1988 six human rights workers, including an Irish priest, were detained in Ayacucho and accused of terrorism. They were released without charges after 30 hours of detention. At about the same time the representative of Americas Watch, a human rights organization based in the United States of America, was ordered by the military authorities to leave Ayacucho.

Amnesty International is also concerned about the persistent threats to the life of Dr Carlos Escobar Pineda, the Special Commissioner appointed in May 1988 by the Attorney General to investigate the Cayara massacre in the Department of Ayacucho, in which approximately 30 people were killed or "disappeared" (see AMR 46/56/89). Dr Escobar Pineda had previously served as Special Commissioner for the investigation of "disappearances" in the Ayacucho region since July 1987. He was repeatedly harassed and threatened with death during this appointment. In August 1988 Dr Escobar Pineda, while investigating the Cayara massacre, received a letter signed in the name of CRF, threatening his life. The conclusion of the Cayara investigation led to renewed threats against Dr Escobar Pineda in November 1988 and shortly after the submission of a report into the massacre, the Attorney General ordered the Ayacucho office of Special Commissioner Escobar Pineda to be closed. Dr Escobar Pineda received threats from both army officers as well as in the name of CRF, threats which appear to have come from the Political Military Command. Dr Escobar Pineda was eventually forced to leave Peru and seek asylum.

During 1989 the work of human rights defenders came increasingly under attack. Amnesty International has documented at least five serious incidents during the course of the year in which lawyers and other human rights activists were targeted.

Amnesty International is concerned that yet another member of the legal profession in Ayacucho was forced to leave the emergency zone in the face of threats and intimidation. On 20 March 1989 Dr Vicente Veliz Bendrell, a lawyer working with the Oficina Arquidiocesana de Acción Social de Ayacucho, Social Action Office of the Ayacucho Archdiocese, received a written message warning him that if he did not leave the area "ruthless action would be taken". The message was signed in the name of the CRF. There are strong grounds to believe that the Political Military Command of Ayacucho has been responsible for previous acts in the name of the CRF, including death threats and bombings.

Dr Veliz worked closely with the Comisión Episcopal de Acción Social (CEAS), the Episcopal Mission for Social Action, the main human rights office of the Roman Catholic church in Peru. Over a period of months leading up to the threats made in March, Dr Veliz had been harassed by the military in various ways. He was frequently prevented from entering the jail to see the prisoners he was defending. Army officers accused him of being a "terrorist" and a protector of "terrorists", and on several occasions he was openly threatened. He also received numerous death threats. Peruvian human rights organizations have no doubt that the threats and harassment were a direct response to denunciations by him of human rights violations by the military. Dr Veliz, together with his family, eventually decided to leave Ayacucho for Lima.

Cecilia Olea, a member of the independent feminist group Flora Tristán, which provides social and legal assistance to working women, was subjected to repeated telephone threats over a period of months prior to receiving a written note from the CRF on 10 May 1989. She was accused by the CRF of being a "communist".

Human rights lawyer, Fernando Mejía Egocheaga, was taken from his home in Oxapampa by uniformed troops of the local garrison on the night of 15 June 1989. His detention was witnessed by his wife and four-year-old daughter; his wife, who has now fled the country, was reportedly raped twice by soldiers after the arrest and threatened with death should she make a formal complaint. Dr Mejía had provided legal aid to peasant and indigenous communities in the region and was one of Pasco's leading human rights lawyers. On the same night Aladino Melgarejo Ponce, the head of the Oxapampa branch of the national teachers' union was allegedly seized by troops. Both men were reportedly taken to the army base at Oxapampa, although their detentions were denied by the army. On 18 June 1989 the bodies of the two men were found, bearing apparent signs of torture and bullet wounds, on the banks of the Santa Clara river in Oxapampa.

Dr Coqui Samuel Huamaní Sánchez, a lawyer and newly-appointed director of the Cerro de Pasco Comisión de Derechos Humanos (CODEH), Human Rights Commission, was found dead on 23 August 1989, some hours after being seized at his home by armed men believed to be members of the security forces. According to witnesses, Dr Huamaní was taken from his home in Cerro de Pasco, the capital of Pasco department, at 1.20 on the morning of 23 August by armed men wearing army uniforms and balaclavas. His detention was witnessed by several people, including the owner of the house in which he was living. At about 2.00 the same afternoon his body was found, together

with a note which read "thus die traitors" ("así mueren los traidores"), an apparent attempt to make it appear that members of Shining Path were responsible for his abduction and killing. An investigation has been initiated by the public prosecutor, but no results have yet been published and no charges are known to have been brought.

On 19 September 1989 Dr Wilfredo Saavedra, a lawyer and President of the Comité de Defensa de los Derechos Humanos (CODEH), Committee for the Defence of Human Rights, in Cajamarca, was detained by the Policía Técnica, the Peruvian Investigative Police. On the same day his home, from where CODEH is run, was searched by the police. The following day, on 20 September, several other members of CODEH were also detained. Most of them were later released.

Reports indicate that Dr Saavedra had been subjected to threats and severe torture on 20 and 21 September and again after denouncing his torturers to two attorneys. Amnesty International has received copies of medical certificates indicating that Dr Saavedra has suffered injuries consistent with having been tortured.

During the first four months of 1990 numerous reports have been received of attacks on organizations and activists, both in the capital, Lima, and in the interior. The Lima-based offices of both the Comisión Andina de Juristas, the Andean Commission of Jurists and of the Peruvian Section of Amnesty International were extensively damaged as a result of bombings on 18 February and 4 March respectively. In addition, Dr José Burneo and Dr Jorge Salazar, both prominent human rights defenders based in Lima, and Rosa Manduján in Huancayo and CODEH staff in Andahuaylas, department of Junín, have been repeatedly threatened over the telephone, sometimes with death.

Amnesty International is also concerned about the reported "disappearance" of Angel Escobar Jurado, Secretary of the Comisión de Derechos Humanos de Huancavelica, Human Rights Commission of Huancavelica, who was detained and conducted through the central streets of Huancavelica by five men dressed in civilian clothes. Witnesses describe the five men "as being of military appearance". His wife, in an oral testimony, has claimed that one of the men who detained her husband has subsequently been seen in Huancavelica in the company of uniformed army personnel. The authorities have denied holding Angel Escobar Jurado.

4. Amnesty International and the defence for human rights activists in Peru

Over the past two years Amnesty International has called upon the Peruvian authorities to investigate the threats and attacks on human rights organizations and their representatives, including the cases of "disappearances" and extrajudicial executions. The organization has repeatedly called for the perpetrators to be brought to justice.

In May 1990 the Secretary General of Amnesty International, during a mission to Peru, raised the organizations concerns over the increase in attacks on human rights organizations, including the bombing of the offices of Amnesty International. At a meeting with Agustín Mantilla, Minister of the Interior, the Secretary General underlined the importance of guaranteeing the safety and security of human rights activists to be able to conduct their work freely and without fear.

In a letter dated 23 May 1990 addressed to the Ambassadors of the Member States of the Organization of American States (OAS), Amnesty International drew attention to the increase in recent years of attacks suffered by human rights defenders throughout several countries in the region, including Peru. The Member States, meeting at the 19th Session of the General Assembly of the OAS in Asunción, Paraguay, between 4 and 9 June 1990, are being requested by Amnesty International to intensify their efforts to protect the rights of those who work to defend basic human rights. Amnesty International is urging the General Assembly to call upon the governments of the Member States, including that of Peru, to take immediate steps towards preventing any future human rights violations directed at human rights defenders.