

PERU

@Summary of Amnesty International's Concerns Since 1983

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, as well as attacks on individuals and organizations who actively seek to defend human rights. This paper briefly summarises Amnesty International's concerns in Peru over the past nine years. These have been more fully documented in numerous papers, including *Peru: Human rights in a state of emergency* (AI Index: AMR 46/49/89), published in August 1989 and *Peru: Human rights in a climate of terror* (AI Index: AMR 46/56/91), published in November 1991. This pattern of violations, 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 these violations and to bring those responsible to justice. The phenomenon of virtually complete impunity is one of the key factors contributing to human rights violations in Peru.

A pattern of "disappearances" became apparent in Peru following the government's decision in December 1982 to transfer responsibility for the zones declared under a state of emergency to the armed forces. Amnesty International has documented at least 4,000 alleged "disappearances" perpetrated by the security forces since that decision was taken nine years ago. The vast majority of these remain unclarified. Areas in which the first "disappearances" were reported were precisely those areas which had been newly designated emergency zones and placed under military control in response to the armed actions of the *Partido Comunista del Perú (Sendero Luminoso)*, Communist Party of Peru (Shining Path) and the *Movimiento Revolucionario Túpac Amaru*, Tupac Amaru Revolutionary Movement. "Disappearances" extended to other regions as they were declared emergency zones and placed under armed forces control.

In 1988, for the first time, "disappearances" were also reported from areas not under emergency regulations. Police units directly responsible to the civilian authorities, in addition to so-called "death squads" said to be acting with the support of the security forces, were responsible for gross violations of human rights as the incidence of "disappearances" spread beyond the emergency zones. Since April 1983 not a single member of the security forces has been convicted for one of these over 4,000 "disappearances".

The organization has also obtained information, including detailed reports, of hundreds of extrajudicial executions. Again, the great majority of these were perpetrated by

the armed forces operating in the emergency zones. A significant number of extrajudicial executions by the security forces or so-called paramilitary groups acting with their support have involved multiple killings. Over the past nine years Amnesty International has documented 15 mass killings totalling at least 500 people. These include three cases of mass killings during the administration of former president Fernando Belaúnde Terry, seven cases during the administration of former president Alan García Pérez, and five cases reported since the government of President Fujimori assumed power in July 1990.

With the exception of two cases in which members of the police forces were convicted - the November 1983 massacre of 33 peasants in the village of Soccos, department of Ayacucho, and the killing of some 250 prison inmates in or near Lima, the capital, in June 1986 - none of the other cases of mass extrajudicial execution documented by Amnesty International has resulted in the conviction of members of the security forces. To Amnesty International's knowledge, to date not a single member of the armed forces has been convicted for any of the extrajudicial executions alleged to have occurred in Peru since a pattern of killings was first reported in 1983.

Numerous cases of torture and other ill-treatment by the security services of detainees in police and military establishments, and of peasants during counter-insurgency operations in rural areas, have also been reported over the past nine years. The real number of torture cases is difficult to establish; many cases are never reported and others, documented as cases of "disappearance" or extrajudicial execution rather than torture, include evidence of the victim having been tortured. 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 troops has become common in the emergency zones; there have been many reports of soldiers having raped women, sometimes repeatedly, in peasant communities or when detained in military bases. Over the past nine years not a single member of the security forces is known to have been brought to justice for any of these cases of torture or ill-treatment.

Amnesty International is also concerned about threats and attacks by members of the security forces or alleged paramilitary groups directed against human rights defenders. Denunciation and investigation of human rights violations is rendered more difficult by the intimidation and harassment of civilian investigators charged with protecting human rights and by the increasing absence of independent human rights monitors in the emergency zones. Many have been forced to leave these zones after receiving threats, including death threats, while others have suffered extrajudicial execution or "disappearance" themselves. While the majority of such attacks have occurred in the emergency zones, leaving many of those zones without human rights defenders, many have occurred in Lima. Amnesty International is not aware of a single case in which the authorities have successfully investigated one of these threats or brought the perpetrators to justice.

In the context of national and international concern about gross human rights violations, President Fujimori has taken measures to improve Peru's human rights record. The government has stated on a number of occasions that human rights are to be fully respected. In September 1991 the government issued a decree immediately authorizing Public Ministry prosecutors to enter military and police installations throughout Peru to investigate alleged "disappearances" and the condition of detainees. Also in September the International Committee of the Red Cross was granted access to military bases and police detention centres in the emergency zones. Amnesty International has welcomed these statements and concrete measures, and acknowledges that since the beginning of August 1991 there has been some reduction in documented "disappearances". However, the organization is concerned that "disappearances" continue to be reported from the Alto Huallaga region and Junín department, and that during the past six months extrajudicial executions allegedly perpetrated by the security forces or so-called paramilitary groups acting with their support have been reported in Lima, Ayacucho and the Alto Huallaga.

The first state of emergency was declared in 1981 in response to increasing armed attacks by the *Partido Comunista del Perú*. In October 1981 the Belaúnde Terry Government invoked Article 231 of the Constitution, and placed five provinces of Ayacucho department under emergency regulations. The Ministry of the Interior and the police force jointly assumed direct control over the five provinces. Responsibility for counter-insurgency was placed in the hands of the Civil Guard, a branch of the police force. In December 1982 the state of emergency was renewed in seven provinces in Apurímac, Ayacucho and Huancavelica departments, and extended to one further province in Huancavelica. Responsibility for internal order and counter-insurgency was transferred to the armed forces, under the overall direction of the Ministry of Defence.

States of emergency are imposed by presidential decree for periods of between 30 and 60 days, after which they can be renewed. 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 July 1990, when the Government of President Fujimori took office, 54 provinces in 11 departments were under a state of emergency. In November 1990 the authorities lifted the state of emergency in the province of Huamanga, Ayacucho department, which is traditionally regarded as the stronghold of the *Partido Comunista del Perú*. However, according to reports, the suspension has not led to the reimposition of full civilian authority and "death squad"-style actions have been reported in the area. By the beginning of February 1992 states of emergency covered part or all of 11 of Peru's 24 departments, containing 48% the population.

Military control over the emergency zones was formalized on 6 June 1985, when Congress passed Law 24,150. Responsibility for maintaining internal order in each

emergency zone was placed directly under a political-military command responsible to the Armed Forces Joint Command. However, the government retained ultimate responsibility for internal order, under Article 3 of Law 24,150, which states: "The planning, preparation, direction and execution of the control of internal order are conducted by the Executive through the system of national defence." All the emergency zones have been administered by the specially-created political-military commands, except for the province of Lima and the Constitutional Province of Callao. In these two provinces, which contain the 7.3 million inhabitants of metropolitan Lima, the police forces, under the Minister of the Interior, are responsible for counter-insurgency operations.

Law 24,150 provides the political-military commands with extraordinary powers which are used to sidestep the principal human rights safeguards in Peru. The commands control all security forces – armed forces, police and the paramilitary civil defence patrols – in the emergency zones, with the exception of the provinces of Lima and Callao; they also implement all executive policies and orders, coordinate the functions of the civilian authorities, and propose further emergency measures to the executive.

The law also places members of the security forces in the emergency zones under military jurisdiction – subject to the Code of Military Justice – for all disciplinary offenses committed in the line of duty. Such offenses are defined as falling "within the jurisdiction of exclusive military law, except those having no relation to service." This enables the military to claim jurisdiction over cases of human rights violations, a right they have exercised in every case where proceedings have been initiated against members of the security forces for offenses committed in the emergency zones.

Rights guaranteed by the Peruvian Constitution which have been suspended under emergency regulations have given the military sweeping powers. The emergency regulations allow them to enter and search people's homes without a court order, and restrict freedom of movement and the right to peaceful assembly. Crucially, during a state of emergency they are also permitted to carry out detentions without a warrant. The practice of widespread unacknowledged detention has been an underlying cause of the high level of "disappearance", extrajudicial execution and torture in the emergency zones.

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 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 to show respect for these rights.

During the past nine years Amnesty International has repeatedly and firmly condemned atrocities perpetrated by the Partido Comunista del Perú, and the Movimiento Revolucionario Túpac Amaru. In particular, Amnesty International has condemned the torture and killing of prisoners by members of the Partido Comunista del Perú. The victims have included political, trade union and community leaders, workers involved in government-sponsored development projects, and members of religious orders and peasant communities.

The organization acknowledges the difficult responsibility of the Peruvian authorities to control the violent activities of these opposition groups. However, it is imperative that members of the security services respect the fundamental rights enshrined in universally recognized international human rights standards, including the International Covenant on Civil and Political Rights, ratified by Peru in 1978. The Covenant is granted the status of constitutional law in Article 105 of the Political Constitution of Peru and takes precedence over domestic legislation in the event of a conflict between international and national law (Article 101 of the Constitution of Peru).

Since 1983 Amnesty International has consistently pressed three governments of Peru, including the present administration, to investigate thoroughly and impartially the thousands of violations which are a hallmark of the grave human rights situation in Peru. The organization has called for the findings to be made public and the perpetrators to be brought to justice.

Despite the security forces' involvement in systematic and widespread human rights violations, extrajudicial executions, "disappearances" and torture continue to go almost completely unpunished. The military court system which continues to claim jurisdiction in all such cases has repeatedly failed to conduct thorough and impartial investigations leading to the prosecution and conviction of those responsible for human rights violations. Only exceptionally have members of the police force identified during the course of judicial or Public Ministry investigations been brought to justice and convicted by military courts. Amnesty International knows of no case in which members of the armed forces were convicted of human rights violations by a military court. The organization believes that transferring jurisdiction to the civilian courts in cases of human rights violations, coupled with the implementation of the other recommendations made to the government in its report Peru: Human rights in a climate of terror (AI Index: AMR 46/56/91), is an urgent and essential step towards bringing the perpetrators to justice and ending the abuses.

Amnesty International believes that the Government of Peru has a duty under the Peruvian Constitution and relevant international standards to exercise political control over the security forces to ensure that they act at all times in accordance with international standards and Peruvian law, but has failed to exercise that control. A consequence of this failure is that a pattern of gross violations of human rights has been permitted to occur with

impunity in Peru. That impunity - and the pattern of violations that it conceals and perpetuates - have been amply documented over the past nine years and most recently in Amnesty International's latest major report, *Peru: Human rights in a climate of terror*.