

UA 237/95

Fear of re-detention / Fear of torture

12 October 1995

**PERUCésar Augusto Sosa Silupú, former prisoner of conscience
and 300 other former prisoners**

Amnesty International fears that César Augusto Sosa Silupú, prisoner of conscience from August 1992 to July 1993, and some 300 former prisoners absolved of terrorism-related charges, are in danger of being re-detained as actual or possible prisoners of conscience. If re-detained, all would be at risk of torture in police custody.

On 6 June 1995 the Supreme Court of Justice ruled to annul the July 1993 decision of a higher court to absolve César Augusto Sosa on procedural grounds and ordered a new trial. The Supreme Court of Justice's ruling is based on the claim that César Augusto's lawyer failed to sign "*el acta final del juicio*", "the final record of the trial". The *Corte Superior de Lambayeque*, Higher Court of Lambayeque, in the city of Chiclayo, Lambayeque department, is expected to issue a re-detention order against César Augusto Sosa in the next few days.

If he is re-detained, Amnesty International would consider him once again to be a prisoner of conscience.

The case of César Augusto Sosa illustrates the problem faced by the other 300 former prisoners. On 5 October 1995 the *Coordinadora Nacional de Derechos Humanos*, National Human Rights Committee, which brings together at least 47 human rights organizations, stated that: "*Sólo los organismos de derechos humanos conocen de alrededor de 300 casos de esta naturaleza que amenazan nuevamente con el infierno de la cárcel a personas inocentes que ya han recuperado su libertad luego de meses o años en prisión.*" "Human rights organizations know of approximately 300 former prisoners who, having already gained their freedom after months or years in prison, know only too well the meaning of once again having to face the hell that is imprisonment."

Amnesty International has received information about eight acquitted and released prisoners of conscience, who now face the same fate as César Augusto Sosa. For example, prisoner of conscience Juan Alberto Huapaya Palomino was re-detained on 19 July 1995 after having been acquitted twice in October 1992 and October 1993 of the same terrorism-related offence. The Supreme Court of Justice overturned the first acquittal. He is currently in prison awaiting a new trial.

BACKGROUND INFORMATION

In recent months, the Supreme Court of Justice has frequently ruled to annul higher courts' decisions to release prisoners of conscience and possible prisoners of conscience. Their cases have now to be heard again before such higher courts, which, under Peru's current anti-terrorism legislation, are compelled to order the re-detention of the defendant.

Peru's current anti-terrorism legislation came into effect in May 1992, and despite amendments passed by the *Congreso Constituyente Democrático*, Democratic Constituent Congress, in November 1993, November 1994 and April 1995, provides a framework for the imprisonment of actual and possible prisoners of conscience.

Furthemore, detention, interrogation, and trial procedures under these laws continue to undermine safeguards designed to prevent torture and ill-treatment. Finally, the practical effect of these laws is to render all terrorism-related trials unfair.

Since May 1992, Amnesty International has adopted 83 prisoners detained under this legislation as prisoners of conscience and has documented the cases of at least 600 possible prisoners of conscience. Peruvian human rights defenders put the number of prisoners falsely accused of terrorism-related offences at approximately 1,000. In addition, since May 1992 the vast majority of complaints laid before the authorities about torture and ill-treatment are linked to prisoners detained under these laws.

The anti-terrorism legislation was enacted in the context of the government's counter-insurgency strategy against the clandestine armed opposition groups *Partido Comunista del Perú (Sendero Luminoso)*, Communist Party of Peru (Shining Path) and *Movimiento Revolucionario Túpac Amaru*, Túpac Amaru Revolutionary Movement. Amnesty International has consistently and unequivocally condemned widespread atrocities by these groups, which include 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*. However, the organization believes that such abuses can never justify violations by the authorities of fundamental human rights such as those enshrined in the United Nations (UN) International Covenant of Civil and Political Rights, the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, and the American Convention on Human Rights, to which Peru is party.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/airmail letters in Spanish or your own language:

- calling for immediate steps to prevent the re-detention of César Augusto Sosa Silupú, expressing concern that if he is re-detained he would once again be a prisoner of conscience and would be in danger of being tortured;
- expressing concern that there are some 300 other released prisoners of conscience and possible prisoners of conscience who are also in danger of being re-detained and tortured;
- urging the authorities to take the necessary steps to ensure that those prisoners falsely accused of terrorism-related offences who have already been acquitted and released are not re-detained;
- urging the authorities to review Peru's current anti-terrorism legislation to bring it into line with international human rights standards.

APPEALS TO:

Sr. Fernando Vega Santa Gadea
Ministro de Justicia
Ministerio de Justicia
Scipion Llona 350
San Isidro
Lima, PERU

Faxes: +5114 223577

Telegrams: Ministro de Justicia, Lima, Peru

Salutation: Dear Minister/Sr. Ministro

Sra. Martha Chávez Cossio
Presidente del Congreso
Plaza Bolívar, s/n
Lima, PERU

Telexes: 20002 pe sen rep

Faxes: + 5114 328842

Telegrams: Presidente del Congreso, Lima, Peru

Salutation: Dear President of Congress/Sra. Presidente del Congreso

COPIES TO:

(Human rights organization)
Coordinadora Nacional de Derechos Humanos
Jr. Túpac Amaru 2467
Lima 14, PERU

and to diplomatic representatives of PERU accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 26 November 1995.