

# AMNESTY INTERNATIONAL

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## **PERU: LEGISLATIVE DECREES ARE A GRAVE SETBACK FOR HUMAN RIGHTS**

The Peruvian Government should abandon any attempt to legislate in favour of human rights violators, Amnesty International said today.

Four legislative decrees issued by President Alan García, using powers delegated to him by the Peruvian Congress, could allow cases involving people under investigation for crimes against humanity to be closed.

“The legislative decrees adopted last Wednesday in Peru are a grave setback for respect of human rights and lay the foundations for a possible covert amnesty”, Susan Lee, Director of Amnesty International’s Americas Programme said.

The provisions approved by President García range from the sanctioning of a new Code of Police and Military Justice to the application of new procedural norms for cases involving human rights violations.

Decree 1097 allows the dismissal of cases in which the period allowed for investigation of the accused by the Public Prosecutor’s Office and the judiciary has been exceeded. “The failure of the Peruvian State to make efforts to investigate human rights violations committed in the past is an excuse to close investigations of those accused of having committed such crimes which could amount to a covert amnesty”, Susan Lee said.

The decree, which establishes a new Code of Police and Military Justice, exceeds its powers because it proposes that military courts should not only try typically military crimes and offences but also all war crimes committed during internal armed conflicts that target the civilian population. Such offences should be tried in civilian courts. In addition, decree 1094 allows war crimes to be time-barred.

In 2006 the Constitutional Court had decided that the inclusion of war crimes in the Code of Military Justice was inconsistent with the Peruvian legal system and ruled it unconstitutional.

## **ADDITIONAL INFORMATION**

Notwithstanding any detailed critique of the four legislative decrees adopted on 1 September by President Alan García that Amnesty International may publish at a later date, the organization believes that, in flagrant breach of the Convention on the Non-Applicability of Statutory Limitations for War Crimes and Crimes against Humanity and the Rome Statute of the International Criminal Court, to both of which Peru is a State party, the new Code of Police and Military Justice establishes a limitation period for war crimes and also allows amnesties and pardons to be granted to those responsible for such crimes.

Such practices are contrary to Peru’s obligations under both international treaty and customary law and should be immediately shelved. For its part, the Inter-American Court of Human Rights has

stated on several occasions that States cannot oppose amnesties, statutes of limitation or *res judicata* in cases involving grave violations of human rights.

According to the *Comisión de la Verdad y Reconciliación*, Truth and Reconciliation Commission, which was set up to determine the circumstances surrounding the human rights abuses committed during the 1980s and 1990s, of the 69,000 cases of people who were believed to have lost their lives or 'disappeared' during that 20-year period, 54 per cent were the work of the armed opposition group *Sendero Luminoso*, Shining Path, and 46 per cent that of the armed forces.

While at the moment hundreds of members of *Sendero Luminoso* are imprisoned, the first trials of members of the armed forces allegedly responsible for 47 of those cases began in 2005 in very difficult circumstances. Concerns were expressed that arrest warrants against members of the army and police accused of human rights violations were not being executed, that some cases were still being tried in military courts and that the Defence Ministry had reportedly failed to cooperate with the civilian courts. Nevertheless, the Peruvian justice system has taken important steps to end impunity over the past few years, including the trial of former President Alberto Fujimori that is currently taking place.

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