

PERU

Legislation is not enough

Torture must be abolished in practice

Amnesty International has been documenting cases of torture and ill-treatment of detainees by members of the Peruvian armed forces and the police for over two decades. Throughout this period the organization has urged the Peruvian authorities to abide by their obligations as State parties to international human rights standards which prohibit the use of torture¹, as well as making clear to all members of the police, military and other security forces that torture will not be tolerated under any circumstances.

In February 1998 the Peruvian authorities took a step towards the eradication of torture when Congress passed Law N° 26926, which modified Peru's Criminal Code by introducing and criminalizing torture as a crime in itself. The law defines torture as a "crime against humanity", punishing with five to 20 years' imprisonment any "civil servant or public official", as well as "any person acting with the consent or acquiescence of a public official" who is found guilty of "inflicting pain or serious suffering to others"².

¹ Peru ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on 7 July 1988, the International Covenant on Civil and Political Rights (ICCPR) on 28 July 1978, the American Convention on Human Rights (ACHR) on 28 July 1978, and the Inter-American Convention to Prevent and Punish Torture on 28 March 1991.

² Article 321 of Peru's Criminal Code, incorporated by Law N° 26926 on 19 February 1998 reads: "Any civil servant, public official or person acting with the consent or acquiescence of the former, who inflicts pain or suffering to others, either physical or mental, or who subjects a person to conditions or methods which deny their personality or diminish their physical or mental capacity, even if they do not cause physical or mental pain, in order to obtain a confession or information either from the victim or a third person, or to punish them for anything they have done or are believed to have done, or to intimidate or coerce them, will be imprisoned for no less than five years and no more than ten. If the torture results in the victim's death, or causes serious injury, or the agent could have prevented this result, he/she will be imprisoned for no less than eight years and no more than 20, or for no less than six and no more than 20 respectively." (Translation by Amnesty International) "*El funcionario o servidor público o cualquier persona, con el consentimiento o aquiescencia de aquel, que inflija a otro dolores o sufrimientos graves, sean físicos o mentales, o lo someta a condiciones o métodos que anulen su personalidad o disminuyan su capacidad física o mental, aunque no causen dolor físico o aflicción psíquica, con el fin de obtener de la víctima o de un tercero una confesión o información, o de castigarla por cualquier hecho que haya cometido o se sospecha que ha cometido, o de intimidarla o de coaccionarla, será reprimido con pena privativa de libertad no menor de cinco ni mayor de diez años. Si la tortura causa la muerte del agraviado o le produce lesión grave o el agente pudo prever este resultado, la pena privativa de libertad será*

Amnesty International welcomes this step forward. However, the organization considers that if the Peruvian authorities are seriously committed to the eradication of torture in practice there are more measures that have to be taken. At present, despite having made torture a punishable offence since February 1998, Amnesty International is concerned that torture continues to be widespread in Peru. The organization bases its concern on the following:

I. *Victims' testimonies about torture continue to be received*

Amnesty International continues to receive reports that persons detained by either the Peruvian armed forces or the police are being tortured and ill-treated.³ These reports suggest that the security forces either torture detainees to extract information and confessions or to punish them.

Since 1983 the cases of torture and ill-treatment documented by Amnesty International have mainly been in the context of the internal armed conflict between the security forces and the armed opposition groups *Partido Comunista del Perú (Sendero Luminoso)*, Communist Party of Peru (Shining Path), and *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement.

Between 1983 and 1993 over 4,000 cases of "disappearance" and extrajudicial execution documented by the organization included reports by independent human rights organizations that the victims had also been tortured or ill-treated. Since 1993 "disappearances" and extrajudicial executions have decreased significantly in Peru. Since then, Amnesty International's concerns in Peru are, *inter-alia*, over 3,000 cases of persons charged with terrorism-related offences under the 1992 anti-terrorism legislation which falls short of international fair trial standards⁴. The vast majority of cases of torture and ill-treatment Amnesty International has documented since this legislation came into effect are of people who have been charged with terrorism-related offences⁵.

respectivamente no menor de ocho ni mayor de veinte años, ni menor de seis ni mayor de doce años.

³ The Appendix to this document describes selected cases which are representative of the pattern of torture and ill-treatment in Peru.

⁴ In 1992, a new anti-terrorism legislation to combat the armed opposition groups came into effect. Amnesty International believes that this legislation denies the right to a fair trial. See Amnesty International's report: *Peru, Human rights in a time of impunity*, AMR 46/01/96, May 1996, for a full explanation of the organization's fair trial concerns on these laws.

⁵ See Case 2 in the Appendix

Although Amnesty International is aware that during the last two decades human rights violations in Peru, including torture and ill-treatment, have mainly been documented in the context of the internal armed conflict, the organization fears that during those years torture and ill-treatment against common criminals was also practised but went unchallenged. However, as the internal armed conflict has decreased⁶ these cases have surfaced. In recent months, Amnesty International has received reports of cases of torture, including deaths in custody, of detainees suspected of having committed common crimes.⁷

II. *Lack of safeguards during detention*

Three months after Peru passed legislation making torture punishable, Decree N° 895, "Law against aggravated terrorism", "*Ley contra el terrorismo agravado*", came into effect in May 1998. This Decree was established to combat organised crime ("*delincuencia común organizada*").⁸ Amnesty International believes that both the 1992 anti-terrorism legislation to combat armed opposition groups and the 1998 "Law against aggravated terrorism" undermine safeguards designed to prevent torture and ill-treatment.

⁶ According to experts on Peru's armed opposition, the MRTA is virtually extinct and Shining Path is operating at very low intensity in the Alto Huallaga region in San Martín department, and in the provinces of Huanta and La Mar in Ayacucho department. On 14 July 1999 Oscar Ramírez Durand, who became the leader of Shining Path after Abimael Guzmán's detention in 1992, was himself detained. Peruvian commentators have claimed that with Oscar Durand's arrest, Shining Path has suffered a further major setback.

⁷ See Cases 1, 3 and 5 in the Appendix.

⁸ Article 1 of Decree N° 895, "Law against aggravated terrorism", describes the crimes it encompasses as: "He/she who is a member or an accomplice of a juvenile gang, association or criminal group which carries or uses war weapons, grenades and/or explosives to commit theft, kidnap, extortion, crime against the life, integrity or health; crimes against property, crimes against individual liberty; and crimes against public security, is committing the crime of Aggravated Terrorism, even if he commits the crime on an individual basis" (Translation by Amnesty International) "*El que integra o es cómplice de una banda, asociación o agrupación criminal que porte o utilice armas de guerra, granadas y/o explosivos para perpetrar los delitos de robo, secuestro, extorsión, delito contra la vida, el cuerpo y la salud; delitos contra el patrimonio; delitos contra la libertad individual; y delitos contra la seguridad pública, comete el delito de Terrorismo Agravado, aunque para la comisión del delito actúe en forma individual.*"

For example, those charged with the terrorism-related offence of treason⁹ and those charged with "aggravated terrorism" are tried under the military justice system. Amnesty International believes that military courts in Peru are neither independent nor impartial. In military courts those who intervene in the trial are military officers subordinated to the judge who is also exercising his rank within the military hierarchy. In addition, under the regulations that govern procedures in military courts, *Ley Orgánica de Justicia Militar* judges are not required to have a judicial background. Thus fair trials are seriously undermined. The UN Special Rapporteur on the independence of judges and lawyers stated after his 1996 visit to Peru that military tribunals did not guarantee the right to an independent and impartial tribunal or to a fair trial.¹⁰ Furthermore, the UN Human Rights Committee stated in its Preliminary Observations to Peru's third periodic report in 1996 that "trials of non-military persons should be conducted in civilian courts before an independent and impartial judiciary"¹¹. The Inter-American Commission on Human Rights also concluded in their 1997 annual report that these tribunals did not guarantee due process.¹²

The 1992 anti-terrorism legislation as well as the 1998 "Law against aggravated terrorism" grant extensive powers to the police during the investigation phase. The police has the power to order and detain a suspect without a judicial warrant or a warrant from the Public Ministry, but has to inform them of the detention within 24 hours. The police is also in charge of the pre-trial investigation. This "*detención preventiva policial*", preventative police detention, as the Government of Peru has called it¹³, can be extended for up to 15 days, and for the terrorism-related crime of treason the period can be extended for a further 15 days. During this period

⁹ Decree Law N°25475 was the first of a set of anti-terrorism decrees issued in 1992 to combat the armed opposition. The definition of "crimes of terrorism" under this law is wide-ranging and lacks precision. Persons accused of these crimes range from those who "carry out acts against the life, physical integrity, health, freedom and security of individuals", to those who, "by whatever means" (Amnesty International's emphasis), incite the commission of terrorism-related crimes, are seen to favour or excuse such crime. In addition Decree Law N°25659, defines the terrorism-related "crime of treason" with the terms set out in Decree Law N°25475, but links this crime to the means employed and their effects on property and life. Those accused of being members of an armed opposition group, whether in their capacity as leaders or by engaging in operations designed to attack and kill, and anyone who aids and abets the commission of "crimes of terrorism", may be charged with treason.

¹⁰ UN Doc. E/CN.4/1998/39/Add.1

¹¹ UN Doc. CCPR/C/79/Add.67, para. 12.

¹² OAS Doc. OEA/Ser.L/V/II.98, page 985.

¹³ UN doc, CAT/C/20/Add.6, para. 6

the detainee is under exclusive control of the police who, depending on the "circumstances and complexity of the investigation" may request incommunicado detention for up to 10 days¹⁴.

Amnesty International considers that 15 days in police custody and the possibility of 10 days in incommunicado detention provides a framework for detainees to be tortured and ill-treated. The International Covenant on Civil and Political Rights (ICCPR), under article 9.3, states that "[a]nyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power...". The UN Human Rights Committee stated in 1982 that "promptly" in this context must be understood as not "exceed[ing] a few days"¹⁵. In addition, the Inter-American Commission on Human Rights' 1983 report on the human rights situation in Cuba¹⁶ considered that a period of one week before being brought before a judicial authority was "an excessively prolonged period".

Moreover, between May 1992, when Peru's anti-terrorism legislation came into effect, and November 1993, the right to *habeas corpus* was suspended. Thus for 17 months those detained of suspicion of terrorism-related offences were not granted judicial protection against possible abuses by the security forces.

Although filing a writ of *habeas corpus* is now possible its effectiveness has been seriously undermined. The writ of *habeas corpus* in cases of "aggravated terrorism" and the "crime of treason" can only be filed before a military judge, who, as mentioned above, is neither independent nor impartial. In addition the effectiveness of the writ of *habeas corpus* is also undermined under a system which allows for incommunicado detention and under which the police appoint legal aid defence lawyers. In 1992 UN experts on the right to a fair trial stated that "[t]he habeas corpus right protects detainees in two ways. First, the personal freedom of the detainee is protected through having the legality of the detention determined. Second, the life and physical integrity of the detainee is protected through the procedure of being brought before a judge."¹⁷

¹⁴ The incommunicado detention may be ordered without the authorization of a judge under the 1992 anti-terrorism legislation. Until April 1995 it allowed for the "*incomunicación absoluta*", "total incommunicado detention", of the detainee.

¹⁵ UN Human Rights Committee, General Comment 8 on Article 9 of the ICCPR, para. 2, 30 July 1982.

¹⁶ OEA/S.R.L./II.61, Doc. 29 rev 1, Spanish Original, October 1983, page 41, para. 13.

¹⁷ Doc UN: E/CN.4/Sub.2/1992/24/Add.3, 29 April 1992, para10.

In short, the procedures and provisions of the anti-terrorism legislation grant extensive powers to the police and put the detainee in a vulnerable situation, therefore providing a favourable framework for torture and ill-treatment to be practised.

In addition to possible torture and ill-treatment during the interrogation phase, Amnesty International is concerned that the penitentiary regime for prisoners convicted of terrorism-related offences, including the "crime of treason" and "aggravated terrorism", is tantamount to cruel and inhuman treatment. Until June 1999 those convicted of crimes of terrorism and treason under the 1992 anti-terrorism legislation were to remain locked in their cells continuously and isolated from other prisoners during the first year of their prison sentence.¹⁸ Since June 1999 these prisoners are now allowed one hour per day in the prison yard during their first year of imprisonment. Those convicted of "aggravated terrorism" under the 1998 legislation must remain in their cells continuously and are isolated from other prisoners during their first year of their prison sentence¹⁹. The Human Rights Committee considers that "prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [of the ICCPR]."²⁰

In 1997 reformed guidelines for the treatment of prisoners charged and/or convicted of crimes of terrorism were approved by Supreme Decree No. 005 - 97 -JUS. Amnesty International is also concerned about the way prisoners are evaluated under this new decree in order to be eligible to receive benefits in relation to prison conditions. The organization visited the *Establecimiento Penal de Máxima Seguridad de Mujeres, Chorrillos*, High Security Prison for Women, Chorrillos, in Lima, the capital, in September 1998 and noted that according to the director's interpretation of "good behaviour" all those prisoners who continue to hold their political beliefs would not enjoy the better conditions that the new decree stipulated. The benefits

¹⁸ Article 20 of anti-terrorism Decree Law 25,475 read until June 1999: "Under this Decree Law, during the first year of detention or imprisonment punishment will be compulsorily served in a maximum security prison in solitary confinement" (translation by Amnesty International) "*Las penas privativas de libertad establecidas en el presente Decreto Ley se cumplirán, obligatoriamente, en un centro de reclusión de máxima seguridad, con aislamiento celular continuo durante el primer año de su detención.*"

¹⁹ Article 9 of Decree N°895 reads: "The sentences given under this Legislative Decree will be served in a maximum security prison ... in solitary confinement during the first year of the sentence." (Translation by Amnesty International) "*Las penas privativas de libertad establecidas en este Decreto Legislativo se cumplirán obligatoriamente, en un centro de reclusión de máxima seguridad ... con aislamiento celular continuo durante el primer año de la condena.*"

²⁰ UN Human Rights Committee, General Comment 20 on Article 7 of the ICCPR, para. 6, 10 April 1992. Article 7 of the ICCPR reads: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. ..."

include a longer exercise period in the prison yard, as well as extended visiting times and physical contact with relatives during visiting times. Amnesty International continues to be seriously concerned that since 1992 those prisoners who have not renounced their political beliefs receive visitors in conditions that are cruel and inhuman. For example, in April 1998 the Amnesty International delegation was able to see that during visiting time women prisoners at the *Establecimiento Penal de Maxima Seguridad de Mujeres, Chorrillos*, are hardly able to talk to their visitors through the closely-meshed metal barrier that separates them.

For those detained on suspicion of having committed a common crime, the Peruvian Constitution, which came into effect in December 1993 states under article 2. 24f that "[t]he detainee should be brought before the appropriate court, within twenty-four hours or within a reasonable period for those detained in a place far from a court."²¹ Amnesty International considers detainees should be presented without delay before a civil judge or representative of the Public Ministry who should have the right and duty to supervise effectively the detention of prisoners. However, the organization is concerned that either the security forces are not bringing detainees before the "appropriate court" promptly or that the judicial authorities are not exercising their duty to supervise effectively the detention of prisoners. Thus, although in theory the Peruvian Constitution provides this safeguard for detainees held on suspicion of common crimes, in practice those detainees continue to be tortured.²² In addition, Amnesty International is concerned that the Peruvian *Código Procesal Penal*, Code of Penal Procedures, also allows for up to 10 days' incommunicado detention for those detained on suspicion of having committed a common crime, which, as stated above is "an excessively prolonged period", and may lead to detainees being subjected to torture or ill-treatment.

III. Impunity

Amnesty International believes that torture cannot be prevented without breaking the vicious circle of impunity. Peru's track record of bringing those responsible of human rights violations to justice is very poor. For example, Amnesty International has knowledge of investigations of alleged torture by members of the security forces which have been opened under the new legislation which criminalizes torture. However, by the end of July 1999 none of these cases had been resolved. In fact, after the UN Special Rapporteur on extrajudicial, summary or arbitrary executions visited the country in 1993 he observed that there was compelling evidence that the

²¹ (Translation by Amnesty International) Article 2.24F of the Peruvian Constitution reads: "[e]l detenido debe ser puesto a disposicion del juzgado correspondiente, dentro de las veinticuatro horas o en el término de la distancia"

²² See cases 3 and 5 in the Appendix.

"institutionalization of impunity in Peru [was one of] the main problems with regard to [a lack of respect for] the right life".

The institutionalization of impunity which was prevalent between 1980 and 1995 came to the attention of the national media last May yet again when journalists discovered that a lieutenant who had been charged with the massacre of 65 women, children and men in 1985 in Accomarca, Ayacucho department, remained in the army and had in fact been promoted. According to reports, President Alberto Fujimori expressed outrage on learning that the lieutenant had been promoted and promised he would be removed from office.

Amnesty International considers that President Fujimori's outrage is not enough and a much clearer message is needed that those committing human rights violations will be brought to justice. Particularly given that during President Fujimori's first term in office the Peruvian authorities took a leap backwards in mid-1995 when impunity became legalised. On 14 June 1995 the Peruvian Congress passed an amnesty law --Law N°26479-- which granted a general amnesty to all those members of the security forces and civilians who were the subject of a complaint, investigation, indictment, trial or conviction, or who were serving prison sentences, for human rights violations committed between May 1980 and June 1995.²³ Amnesty International has been profoundly dismayed at the promulgation of this law. Closing all investigations into human rights violations committed by members of the security forces during 15 years makes a mockery of the government's pledge to respect human rights and in fact may lead to further human rights violations. The UN Committee on Human Rights has stated that the amnesty law is in breach of the International Covenant on Civil and Political Rights because it "contributes to an atmosphere of impunity among perpetrators of human rights violations and constitutes a very serious impediment to efforts undertaken to consolidate democracy and promote respect for human rights...".²⁴

President Fujimori's lack of commitment to eradicate not only torture but other grave human rights violations committed in Peru is underlined by his recent move to withdraw Peru from the jurisdiction of the Inter-American Court of Human Rights. On 7 July 1999 Congress debated

²³ Following the promulgation of this amnesty law, the judge in charge of investigating a November 1991 massacre in Lima (in which 15 men, women and children were killed by a "death squad" reportedly attached to Peru's National Intelligence Service) argued that the law was inapplicable to this case. However, on 28 June 1995, before her ruling reached the High Court for ratification or veto, Congress passed a second Amnesty Law --Law N°26492-- which prohibits the judiciary from ruling on the legality or applicability of the amnesty law.

²⁴ See UN Docs. CCPR/C/79/Add 67 para.9. This view was echoed by the UN Special Rapporteur on the independence of judges and lawyers after his 1996 visit to Peru, see UN Doc. E/CN.4/1998/39/Add 1, paras. 131 and 132, as well as by the Inter-American commission on Human Rights, see OEA Doc. OEA/Ser.L/V/II.95, March 1997, page 746.

and passed a law proposing that the State withdraw with immediate effect from the jurisdiction of the Inter-American Court. The bill was proposed by President Fujimori with the unanimous support of his Council of Ministers.

The decision followed a May 1999 ruling by the Inter-American Court that the 1994 trial of four Chileans under Peru's anti-terrorism legislation had not been fair and that the defendants, who had been sentenced to life imprisonment, should be retried. By 1 July 1999 the Peruvian government had informed the Secretary General of the Organization of American States that it would not comply with the Court's ruling in this case. Seven days later Peru withdrew from the jurisdiction of the Inter-American Court.

The Inter-American Court is an international tribunal which provides victims the benefit of independent judicial scrutiny in cases where their rights under the American Convention on Human Rights (ACHR)²⁵, have been violated and where local authorities have not provided effective redress. By closing this avenue the Peruvian authorities are effectively closing the door to human rights victims, including those who have been tortured. By withdrawing from the jurisdiction of the Inter-American Court, Amnesty International believes the government of Peru has taken one further step in perpetuating the institutionalised and legalised impunity which has characterised the past 20 years of human rights violations by the security forces.

²⁵ The ACHR, includes the right to not be tortured under Article 5.2: "No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person."

CONCLUSIONS AND RECOMMENDATIONS

Amnesty International considers that the Peruvian authorities need to take further steps in order to eradicate torture and ill-treatment of detainees and prisoners. Although torture was made a punishable offence in February 1998, the organization continues to receive testimonies of people who have been tortured, impunity remains institutionalised and legalised, and safeguards during detention are not being implemented. Amnesty International considers torture to be widespread in Peru and urges the authorities to adopt and implement the following recommendations:

- **Official condemnation**

The highest authorities should demonstrate their total opposition to torture and condemn it whenever cases arise. They should make clear to all members of the police, military and other security forces that torture will not be tolerated under any circumstances.

- **Anti-terrorism legislation**

Review the anti-terrorism legislation to bring it into line with international fair trial standards. In particular, the use of military tribunals to try civilians should be abolished.

- **Access to prisoners**

Ensure that all prisoners, however serious the crimes they are accused of, are brought before a judicial authority without delay after being taken into custody and that relatives, lawyers and doctors have access to them without delay and regularly thereafter. Effective judicial remedies, such as the right to *habeas corpus*, should be available at all times to enable prisoners, relatives and lawyers urgently to ensure a prisoner's safety and for relatives and lawyers to find out immediately where a prisoner is held and under what authority.

- **Safeguards during detention**

All prisoners should be told of their rights immediately, including the right to lodge complaints about their treatment. The authorities responsible for detention should be separate from those in charge of interrogation. Judges should have the right and duty to supervise effectively the detention of prisoners. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

Abolish the practice of prolonged solitary confinement for prisoners convicted.

- **No use of statements extracted under torture**

The Government should ensure that statements and other evidence obtained through torture are not invoked in any proceedings, except against a person accused of torture as evidence that the statement was made.

- **Investigation**

Ensure that all complaints and reports of torture are promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. The methods and findings of such investigations should be made public. Officials suspected of committing torture should be suspended from active duty during the investigation. Complainants, lawyers, witnesses and their families should be protected from intimidation and reprisals.

- **Prosecution**

Those responsible for torture, including those who order it, should be brought to justice. Punishments should be commensurate with the gravity of the crime.

- **Right to effective remedy**

Repeal the 1995 Amnesty laws and guarantee that the victims of torture between 1980 and 1995 have the right to an effective judicial remedy.

- **Compensation and rehabilitation**

Victims of torture and their dependants should be entitled to obtain fair and adequate redress from the state promptly, including appropriate medical care, financial compensation and rehabilitation.

- **Training**

It should be made clear during the training of all officials involved in the custody, interrogation or medical care of prisoners that torture is a criminal act. They should be instructed that they have the right and duty to refuse to obey any order to torture. An order from a superior officer must never be invoked as a justification for torture.

- **International treaties and bodies**

The Government should abide by its obligations under the international human rights treaties containing safeguards against torture, such as the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the International Covenant on Civil and Political Rights and the American Convention on Human Rights. The Government should revoke its decision to withdraw from the jurisdiction of the Inter-American Court of Human Rights and abide by its recommendations.

International responsibility

The Government should use all available channels to intercede with the governments of countries where torture is reported. It should ensure that transfers of equipment, know-how and training for military, security or police use do not facilitate torture. The Government should also make sure that no one should be forcibly returned to a country where he or she risks being tortured.

APPENDIX

CASE N°1

Huber Méndez Barzola, a 16-year old secondary pupil, was stopped by the police on 5 March 1999 in the city of Huamanga, Huamanga province, Ayacucho Department. The police were carrying out a special operation against the rise of juvenile gangs in the area. According to reports, the police detained him on suspicion of having committed "aggravated terrorism". However, he was later charged with illegally possessing a gun and a *huanchaco*, a metal chain with two pieces of metal on each end, and with "*pandillaje pernicioso*", "belonging to a criminal gang"

Huber Méndez was then transferred to the police station of the city Huamanga where he was stripped naked by three police officers. He was beaten and the sharp object (*huanchaco*) that the police allegedly found in his possession was forcefully introduced in his anus.

According to information received by Amnesty International on 18 March 1999 a judge formally opened an investigation into the torture of Huber Méndez, and ordered the detention of two of the policemen and summoned the third one to appear in court. The investigation phase by the judiciary has not yet been completed.

CASE N° 2

On 18 December 1998, Raúl Teobaldo Miguel Andahua was walking down a street in Aguaytía, in Ucayali department, when he was assaulted and forced into a car. He was then driven to a nearby naval base where, according to reports, he was beaten by eight or more officers.

Raúl Miguel Andahua reportedly lost consciousness after having a stick inserted into his anus. When he recovered he found himself in a cell, naked and wet. The following day officers allegedly applied electric shocks to his back and forced him to sign a statement confessing to crimes of terrorism. He was also threatened with death if he refused to state that his injuries were the result of a motorcycle accident. He was released unconditionally because the police found no evidence implicating him in terrorism-related offences.

Raúl Teobaldo Andahua has filed a complaint at the Public Ministry's Attorney General's Office giving the name of one of the officers whom he recognised as having tortured him at the naval base in Aguaytía. The judge in charge of the investigation has ordered the officer's detention. However, the officer is in hiding. In addition, according to reports, the forensic doctor attached to the Office of the Public Ministry in Aguaytía considered that the injuries suffered by Raúl Miguel Andahua do not amount to torture but are "mild injuries" (*lesiones leves*). In view of this

report the attorney in charge of the case concluded there is no case to answer under the legislation passed in 1998 which makes torture a punishable offence.

By the end of July 1999 the judicial investigation had not been completed.

CASE N° 3

On 4 September 1998 Pablo Waldir Cerrón Gonzáles was beaten and kicked by a policeman in his home in the town of Huamachuco, La Libertad department. He was then forced out of his home and driven to the police station. The motive for his arrest stemmed from accusations that he failed to settle his debts.

According to reports, at the police station Pablo Waldir Cerrón was beaten with a stick and the butt of a gun in the stomach and back. In addition, his head was submerged in a bucket full of water on three separate occasions. He subsequently suffered heavy nose bleeding.

Pablo Waldir Cerrón was released the following day after being locked in an underground prison cell all night. On 7 September 1998, Pablo Waldir Cerrón filed a complaint before a public prosecutor. The prosecutor has asked the police to investigate these allegations. By the end of July 1999 the police had not yet informed the public prosecutor the results of their investigation.

CASE N° 4

On 11 December 1998 Carlos Orellano Mallqui, a teacher, was taken to a hospital in the town of Coris, Aija Province, Ancash department, by policemen. According to reports the medical staff told his wife that on arrival he kept saying to the policemen "do not hit me any more" ("*ya no me pegen*"). Carlos Orellano Mallqui died two days later, on 13 December 1998. He had been shot in the head, and suffered injuries consistent with having been beaten in the face, hands, knees and testicles. Carlos Orellano had been detained on suspicion of theft.

According to the information received by Amnesty International, a judicial investigation into the death of Carlos Orellano Mallqui has been opened and a detention order against a police officer issued. In January 1999, the officer in charged filed a writ for his case to be transferred to the military justice system. The Supreme Court of Justice has as yet to decide whether the case should be heard in the civil or the military courts. Meanwhile, the judicial investigation in the civilian courts continues its course. On 8 April 1999 the Provincial Attorney asked for an extension to complete his investigation. On the other hand, in January 1999 the military filed charges against one officer for crimes of injury and negligence while on duty", "*el delito de lesiones y negligencia en el desempeño de sus funciones*"

By end of July 1999 the Supreme Court of Justice had not yet decided whether the case would be heard by a military or civilian court.

CASE N° 5

On 1 September 1998 at around midday Lucas Huamán Cruz, 65 years-old, and Zózimo Lunasco Taype were taken to the police station of the town of San Francisco, La Mar province, Ayacucho department on suspicion of having stolen 2000.00 Peruvian soles (equivalent to approximately 600.00 US Dollars). At the police station they were taken to an interior yard where they were allegedly beaten to force them to confess to the crime. Four hours later they were released.

Lucas Huamán Cruz died the following day, on 2 September 1998, in his home. According to the autopsy report the causes of his death were: "hypovolemic shock (shock due to lack of liquids: can also mean shock caused by too little volume of blood) with rupture of the liver," ("*shock hipovolémico con ruptura hepática*"). The medical examiner described the following findings: "Swelling of the eyelid in the face; bloody secretion from the nose; generalised edema on the thorax; inflamed testicles; bloody blister on the lower levels limbs; evidence of a haemorrhagic zone of the foot: internal haemorrhage in the abdominal cavity; rupture of the liver measuring 10cm in diameter and 1cm in depth; rupture of 5cm in the left lobule of the kidney; in the spleen, rose shaped rupture; and in the sternum [breast bone], the fifth left rib fractured". "*En la cara se encontró un edema palpebral; en la nariz secreción sanguinolenta; en el tórax, un edema generalizado; los testículos estaban inflamados; en el hígado, se encontró ruptura hepática de 10cm de diámetro por 1cm de profundidad; en el lóbulo izquierdo del riñón, ruptura de 5cm; en el vaso, ruptura en forma de rosa; y en el esternón, la quinta costilla izquierda fracturada.*"

One policeman has been detained and a judicial investigation is currently underway. In May 1999 the provincial attorney in charge of the case stated that "there is evidence that the accused is responsible for the crime of torture", "*esta plenamente acreditada toda responsabilidad penal del inculpado... como autor del delito de tortura*". However, the examining judge concluded that there was insufficient evidence. By the end of July 1999 the case had not yet been resolved.