

## ARGENTINA

In Argentina during the period of military rule (1976-1983) thousands of people were abducted by the security forces and “disappeared”. The *Comisión Nacional sobre la Desaparición de Personas* (CONADEP), National Commission on Disappeared People, appointed in 1983 by the new civilian government recorded 8,960 cases of “disappearances”. Among the “disappeared” are about 200 children born in clandestine detention centres during the captivity of their mothers, some of whom are believed to have been taken away to give to childless couples connected to the armed forces or police to raise as their own.

In 1985 the Buenos Aires Federal Appeals Court tried, convicted and sentenced a number of former junta members and police chiefs for human rights violations including illegal detention, torture and homicide. But further investigations into past human rights violations were brought to a standstill during the 1980s following the *Ley de Punto Final*, Full Stop Law, of 1986, which set deadlines for Courts to complete investigations on human rights violations; the *Ley de Obediencia Debida*, Law of Due Obedience, of 1987, which instructed judges to apply the principle of due obedience to all officers below the rank of colonel and close any pending cases against them; and the Presidential Pardons of October 1989 and December 1990.

In April 1995 the Human Rights Committee based at the United Nations in Geneva commented on the Due Obedience Law, passed in June 1987, under which any person under the rank of Full Colonel was automatically presumed innocent on the grounds that they were obeying orders from a superior. The Committee noted that:

*“the Full Stop and Due Obedience Laws deny effective remedy to victims of human rights violations during the period of authoritarian rule in violation of articles 2 (2,3) and 9 (5) of the International Covenant on Civil and Political Rights...The Committee expresses concern that pardons and general amnesties may promote an atmosphere of impunity for perpetrators of human rights violations belonging to the security forces. The Committee voices its position that respect for human rights may be weakened by impunity for perpetrators of human rights violations.”*

In October 1992 the Inter-American Commission on Human Rights issued a resolution in relation to the Full Stop Law and the Due Obedience Law. The Commission found in October 1992 that by passing these laws Argentina had contravened the right to judicial protection (Article 25) and the right to a fair trial (Article 8) of the American Convention on Human Rights. It noted that these laws were passed after the Convention had come into force in Argentina (1984). In the resolution the Commission cited extracts from the Inter-American Court of Human Rights’ judgement of 29 July 1989 in the Velásquez Rodríguez case from Honduras:

*“...The state has a legal duty to take reasonable steps to prevent human rights violations, and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation... If the state apparatus acts in such a way that the violation goes unpunished and the victim’s full enjoyment of such rights is not restored as soon as possible, the state has failed to comply with its duty to ensure the free and full exercise of those rights to the persons within its jurisdiction.”*

It is now 20 years since the first “disappearances”, but most of the relatives of the “disappeared” still have not had the information about the fate of their loved ones made available to them. Furthermore, under Argentine law they have no means to bring to justice those responsible for human rights violations during the period of military rule. However, relatives of those “disappeared” who had a nationality other

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than Argentine have the hope of continuing investigations into the fate of their loved ones, and bringing to justice those responsible.

Amnesty International continues to be concerned with establishing the facts about the thousands of people who “disappeared” in Argentina during the period of military rule. Amnesty International believes that the relatives of the victims have the undeniable right to a full investigation of the truth about the fate of their loved ones and to public disclosure of the final findings and has consistently emphasised to the Argentine authorities the need to clarify the fate and whereabouts of the “disappeared”.

In a country like Argentina, where the search for truth and justice has not been met and where all officers below the rank of full colonel were exempted from prosecution for human rights violations, the following declaration made in 1995 by the Commander in Chief of the Army, General Martín Antonio Balza should be noted. He said: “Whoever violates the constitution, gives or obeys immoral orders and who, in order to achieve an end they believe to be just, uses unjust and immoral means, commits a crime.” In spite of this, no further information has come to light on the cases of the thousands of “disappeared”.

## BOLIVIA

In July 1995 the *Comision de Derechos Humanos de la Cámara de Diputados*, Bolivian Human Rights Commission of the Chamber of Deputies, presented for the consideration of the Chamber of Deputies its report on human rights violations allegedly committed by the Bolivian security forces between June 1989 and April 1993. These human rights violations took place in the course of security forces operations aimed at stopping the violent activities of newly formed armed opposition groups.

The Commission's report, "*Denuncia de Torturas a Ciudadanos Sindicados de Alzamiento Armado*", "Denunciation of Torture of Citizens Accused of Armed Uprising", documents the allegations of torture and ill-treatment of 35 political detainees, most of them still in detention. It also provides information about the apparent extrajudicial execution of five people and citing Bolivian law and international standards, calls into question the fairness of the trials initiated against the prisoners. The information gathered and analysed in the Commission's report includes testimonies by victims and their relatives, members of the judiciary and other relevant authorities, as well as legal and forensic documentation. Reports by local human rights organizations and Amnesty International documenting the violations are also cited by the Commission.

The Commission was mandated by the Chamber of Deputies to undertake this investigation, and its report now awaits full endorsement by the Chamber. Amnesty International welcomes the Commission's strong stand against torture and impunity. Amnesty International believes that full congressional backing for the recommendations contained in the report would serve to strengthen those official institutions charged with investigating human rights violations, including the call for those who violate human rights to be brought to justice.

Amnesty International remains concerned at the lack of judicial investigations into the report of unlawfully prolonged incommunicado detention, torture, and extrajudicial executions outlined above. The organization also remains concerned that the political prisoners did not have access to counsel during the initial period of detention, were tortured and that their trials have not been completed within a reasonable time. These concerns were raised with the authorities on several occasions including in January 1996 with the Vice President of the Republic, Victor Hugo Cárdenas, during an interview in London, and in April 1996 with Ministers of the Bolivian Government in La Paz. No official reply has been received on these concerns.

The human rights violations mentioned above indicate a pattern of human rights violations by members of the Bolivian security forces against detainees suspected of membership of armed groups. Amnesty International notes with concern that, although the Bolivian Constitution establishes under *Article 9.II* that no one may be held in incommunicado detention for more than 24 hours, all the detentions referred to in this report failed to observe this constitutional provision. Amnesty International is concerned that allegations of torture of detainees while in police custody have not been effectively investigated.

The torture of detainees in police custody is an unacceptable practice that must not be tolerated. Furthermore, these practices contravene commitments of the Bolivian Government as a State Party to the International Covenant on Civil and Political Rights (ICCPR). Other international standards including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

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which the Bolivian Government has signed but not ratified, require governments to take effective measures to prevent acts of torture in any territory under their jurisdiction. As a signatory to this Convention, the authorities are obligated under international law not to take steps which would defeat the object or purpose of this treaty.

Amnesty International is increasingly concerned that government agents responsible for upholding the law have apparently failed to respect the Bolivian Constitution and international standards which forbid torture and set out guarantees which, if properly enforced, would help to prevent such human rights violations.

Amnesty International is further concerned that the case against the political detainees is based primarily on evidence extracted under torture in violation of Bolivian law and international human rights standards.

Amnesty International is concerned that district and police prosecutors failed to uphold the Bolivian Constitution and international standards by their denial of legal assistance to the detainees during the interrogation period.

Amnesty International considers that human rights violations should be promptly, thoroughly, independently and impartially investigated. Such investigations must take place even after a government, under whose rule the alleged violations were perpetrated, is replaced by successive governments. Failure to identify and bring to justice those responsible for human rights violations might encourage some to view extrajudicial execution, torture and ill-treatment as acceptable methods of operation in the administration of national security in the future.

In accordance with international human rights standards, the state has an obligation to ensure that investigations into cases of alleged torture and extrajudicial execution are carried through to their completion, that the findings are made public and that those found responsible are brought to justice. Ending impunity for human rights abuses is one of the most important preventive measures against such abuses.

## **BRAZIL**

Brazil provides a telling case study of how total impunity for human rights violations under military rule (1964-1985), has led to a culture of impunity for human rights violations being ingrained in police forces, to the extent that it threatens the very rule of law. Under military rule torture, extrajudicial executions and “disappearances” were committed against perceived political opponents by the security forces, and impunity was guaranteed through the military government’s own 1979 Amnesty Law.

Under civilian rule these same human rights violations are committed against perceived criminal suspects with almost universal impunity. The effects of impunity are taken one stage further, however. Instead of purportedly serving a so-called ‘war against crime’, the toleration of human rights violations has allowed police to torture and kill in pursuit of personal gain through extortion, and this has drawn police agents ever more deeply into criminal activities.

Tackling impunity in Brazil is important not only to preserve human rights but also to bring police forces under the control of the elected authorities. The government needs to take determined action to agree, negotiate and implement concrete measures to tackle a situation that has escaped control.

On 20 October 1996 human rights lawyer Francisco Gilson Nogueira de Carvalho was shot dead outside his house in Macaíba, Natal, Rio Grande do Norte state. Since March 1995 he had been helping a special Commission set up by the local state prosecution service to investigate some 25 killings in the state attributed to a death squad known as ‘The Golden Boys’, alleged to act under the auspices of the Deputy Chief of Police. The Federal authorities were well aware of these allegations in 1995 and had provided the lawyer with one month’s federal police protection. Yet no prompt action was taken to suspend those accused from active duty or bring those responsible to justice.

In many other states in Brazil (Acre, Amazonas, Alagoas, Espirito Santo, Minas Gerais, Mato Grosso do Sul, Pará, Rio de Janeiro, Sergipe are but examples), the actions of “death squads” eliminating poor youths and criminals suspects in urban areas, and trade union and community leaders in rural areas have gone unpunished. Even when investigations are mounted, they often result in police being merely transferred or even promoted.

In the case of human rights violations committed by police on duty and in uniform, it is rare that those under investigation are suspended from active service. Several military police officers in positions of command during the Casa de Detenção prison massacre of October 1992 in which 111 prisoners were killed after they had surrendered, had multiple fatal shootings on their previous records. One officer had 40 such fatal shootings on his record prior to his participation in the massacre. Despite governmental declarations that firm action would be taken and that in this of all cases there would be no impunity, in the four years since the Casa de Detenção massacre, no ballistic tests have been carried out to match bullets removed from prisoners’ corpses with military police weapons.

In the case of the military police massacre of 19 landless peasants in Eldorado de Carajás, in Pará state in April 1996, although all 155 military police present have been charged with participation in the massacre, little attempt has been made to identify individual military police who were witnessed carrying out extrajudicial executions.

Thus whilst prosecutions may be announced, and cases spend years proceeding through the courts, fatal flaws in the original investigations build-in impunity to the long delayed outcome. For example, although the Vigario Geral massacre of 21 shanty town residents in Rio de Janeiro in September 1993 was another extremely high profile case, three years later it was discovered that not all the bullets were removed from corpses in the original autopsies, to be matched with military police weapons.

Amnesty International has long been concerned that the 'federative principle' has acted as a barrier to the full implementation of human rights obligations undertaken by Brazil. The federal government is responsible for ensuring that Brazil abides by its human rights obligations under international law. Individual states of the Federative Republic have jurisdiction over offences committed within their territory. The 'federative principle' - that individual states have autonomy - is one that has at times obstructed full investigation into human rights violations and has contributed to persistent impunity for such violations and high levels of non-observance of human rights in individual states.

Amnesty International has repeatedly urged the Brazilian authorities to create mechanisms for the federal investigation and prosecution of human rights violations when states have failed to do so promptly and impartially. In repeated cases of massacres by police in the states, Amnesty International has urged that federal authorities take over investigations to prevent the obstruction, manipulation and loss of vital evidence in the course of state police investigations. In many such cases the federal authorities have limited themselves to mounting 'parallel' investigations, which may provide interesting information, but which have no formal status, and no access to or control over physical evidence.

On 13 May 1996 President Cardoso launched a National Human Rights Program, which contains a number of proposed reforms which if implemented may contribute to reducing the incidence of human rights violations and impunity. Whilst Amnesty International welcomes the government's efforts to tackle impunity in this way, the organization's principal misgivings with regard to the Human Rights Program are that it lacks a timetable for implementation, and lacks clarity as to what resources will be dedicated to it. Thus the Program appears, so far, to be more a list of intentions than a fully fledged plan of action with measurable targets. It is hoped, however, that the Program will be further developed, and implemented as a matter of urgency.

Fears about delays in implementation and the real level of priority given by the Brazilian Government to the National Human Rights Program are heightened by recent obstacles obstructing legislation concerning key reforms outlined in the Program. Measures that may contribute to combatting impunity include :

- Creating mechanisms for the federal investigation and prosecution of human rights violations

*Legislation on this has not made progress.*

- Transferring jurisdiction for military police crimes from military to civilian courts

*A weaker form of the legislation originally proposed on this was passed in July 1996. The final legislation only refers to crimes resulting in loss of life. Military police retain control over police investigations into such violations. Only when the military investigator deems the crime to have been 'intentional' is it passed on to civilian courts.*

- Creating a National Witness Protection Program

*In May 1996 the federal government withdrew draft legislation on this which had been proceeding in Congress since 1994.*

- Making torture a crime in the Penal Code

*Legislation on this has passed in the Chamber of Deputies and is stalled in the Senate*

- Granting Forensic Specialists independence from the Police, to whom they are now subordinate

*The government has identified this as a medium term priority, and no progress has been made.*

Progress has been made in some cases, however, although these have thus far proved to be exceptional. In April 1996 one military policeman was convicted and sentenced to 309 years' imprisonment, reduced to 89 years on appeal, for participation in the killing of seven street children and a youth outside the Candelária church in Rio de Janeiro in July 1993, known as the *Candelária massacre*. As military police were deemed to have been acting off-duty and were not in uniform, the case was heard before a civilian court. This was, however, the trial of only one of the defendants in a complex and a high profile case. In many other cases involving the killing of children and adolescents, police investigations are not completed and cases never reach the courts. There remain fears that all those responsible for the Candelária massacre will not be punished. The court responsible for continuing the Candelária case has taken the curious decision to separate the trials of some six other defendants. In a case where defendants may make claims and counter-claims against other suspects, it would seem essential for the same jury to be able to assess all the evidence at one time.

## CHILE

Amnesty International believes that all human rights violations committed during the years of the military government (1973-1990) should be thoroughly and independently investigated and that all those found responsible be brought to justice. Serious moves have been made to avoid the emergence of the full truth of what happened to victims of human rights violations.

Amnesty International is deeply concerned at attempts in Chile to curtail investigations into hundreds of "disappearances" and extrajudicial executions that occurred during the period of General Pinochet's rule by applying the 1978 Amnesty Law. The organization is concerned both by legislative proposals which would effectively seal cases from prosecution and further investigation, and by the apparent undue haste with which Chilean courts have been closing cases definitively before the full truth has been established. A recent request by the Army Prosecutor to close pending cases is one more step which amounts to obtaining total immunity for perpetrators of human rights violations.

Amnesty International believes that the 1978 Amnesty Law and the way it has been applied are contrary to international human rights standards and has consistently called for it to be repealed. The organization believes that details of individual cases of human rights violations during the military period have yet to be fully established. Therefore Amnesty International opposes any further restriction on the investigation of these violations or on the prosecution of those found responsible.

The military government introduced the 1978 Amnesty Law (Decree Law 2.191) by decree. It prevents prosecution of individuals implicated in certain criminal acts committed between 11 September 1973 and 10 March 1978. This was the period of the state of siege which saw the harshest years of repression in Chile, when thousands of Chileans suffered grave human rights violations including torture, execution and "disappearance" at the hands of Chilean security forces, and in particular the *Dirección de Inteligencia Nacional, DINA* (Directorate of National Intelligence). Several hundred political prisoners also benefitted from the 1978 Amnesty Law and were released.

Chilean courts - both civilian and military - have systematically closed judicial proceedings in hundreds of cases involving human rights violations that occurred during the first five years of the government of General Pinochet by applying the 1978 Amnesty Law. However, a number of cases remain open, and there have been conflicting rulings on the applicability of the 1978 Amnesty Law.

The Supreme Court has also in the main ruled in favour of the jurisdiction of the military courts, when they have claimed jurisdiction for such cases, and once passed from civilian to military courts, these cases have been systematically closed through application of the Amnesty Law.

### The Carmelo Soria Case

On 23 May 1995 the II Chamber of the Supreme Court gave a surprise decision to reject an appeal for the application of the 1978 Amnesty Law in the case of dual Chilean-Spanish national Carmelo Soria, a United Nations official, whose dead body was found in a canal in Santiago in July 1976 two days

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after his “disappearance”.<sup>1</sup> Numerous attempts had been made to apply the 1978 Amnesty Law to the case and it had been closed and re-opened on several occasions. During the latest appeal, lawyers for the Soria family had argued that the Vienna Convention on Crimes Committed against International Civil Servants and Other Diplomatic Officials (which requires states to punish those found responsible for such crimes) applied in this case. The convention had been ratified by Chile in 1977 and therefore took precedence over the 1978 Amnesty Law. Whilst the Supreme Court did not explicitly mention the Vienna Convention in its 23 May ruling, it allowed proceedings to continue. Defence lawyers for the military accused in the case have petitioned for the initial investigatory phase of proceedings to be closed (*cierre del sumario*).

In June 1996, a Supreme Court judge (*Ministro Instructor*) ruled for the application of the Amnesty Law in the case and pronounced the case definitively closed. An appeal to this ruling was filed by the lawyers of the Soria family.

A final ruling on the case was made by the II Chamber of the Supreme Court on 23 August 1996 which rejected this appeal, thereby closing the case. Amnesty International, in a public statement, said that this constituted an affront to the international community and openly contradicted Chile’s international human rights commitments. Amnesty International further stated that “the arbitrary closure of cases using the 1978 Amnesty Law promotes impunity and does not contribute to achieving truth and reconciliation among Chileans.”

In August 1996 the Corporation for Reparation and Reconciliation (*Corporación de Reparación y Reconciliación*), a government agency in charge of pursuing the cases of complaints of past human rights violations, presented its report to the Chilean Government in which it officially recognized a further 123 "disappearances" and 776 extrajudicial executions and deaths under torture.

Despite the recognition of additional cases of human rights violations between 1973 and 1978 there are serious concerns that the Chilean Government is not sufficiently committed to tackling impunity and may submit to pressures from sectors close to the security forces and those within the security forces themselves to close outstanding human rights violations cases which occurred in this period. Fears have increased in the last year that the authorities would limit themselves to the location of remains and refrain from attempts to identify those responsible and bring them to justice. In November 1995 the government presented a legislative proposal to Congress, known as the *Figueroa-Otero* Bill, which would have restricted investigations into the location of the "disappeared". The debate over this Bill has been frozen.

So far this year over twenty cases of human rights violations have been closed. On 4 October 1996, the Army Prosecutor General (*Fiscal General Militar*) petitioned the Supreme Court of Justice to instruct all appeal courts and judges to close definitively all outstanding cases of human rights violations committed between September 1973 and March 1978.

There are three elements in the internationally recognised right of effective remedy for human rights violations: truth, justice and compensation. Although Chile has made significant steps towards

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See also 'The case of Carmelo Soria : A United Nations Official' AI Index AMR 22/05/95.

addressing relatives' rights to compensation, it will be ranked alongside other countries that have denied the right of families to truth and justice if it allows human rights cases to be prematurely closed.

## COLOMBIA

Impunity has continued to prevail in cases of human rights violations. In the vast majority of cases of extrajudicial execution, "disappearance" and torture, those responsible have not been brought to justice. In some cases disciplinary investigations conducted by the Procurator General's office have resulted in sanctions, including dismissals, of members of the armed forces responsible for serious human rights violations. However, amid a climate of obstruction and intimidation, disciplinary sanctions have remained the exception and impunity in criminal investigations is virtually total as military courts, which continue to claim jurisdiction, have failed to hold members of the armed and security forces accountable before the law for human rights violations. Even in cases in which members of the armed forces have been found responsible for grave human rights violations in disciplinary procedures, military courts routinely drop charges or acquit those responsible.

According to the Procurator General's February 1996 report, for the period covering July 1994 to July 1995: "Members of the security forces, the military and National Police, are the people most often linked to investigations involving human rights violations". Nearly two thousand investigations had been opened during the 12-month period. The most common cases of human rights violations under investigation included personal injury, torture, including sexual abuse, and attacks against the civilian population.

Paramilitary groups, declared illegal in 1989, have continued to carry out widespread human rights violations including hundreds of politically motivated killings of civilians they considered to be subversive or guerrilla collaborators. Victims included community leaders, teachers, trade unionists and human rights defenders. The government has failed to take action to fulfil its commitment to dismantle paramilitary groups or to bring those responsible for gross and systematic abuses to justice. Although a small number of members of paramilitary groups were arrested, recognized leaders remained at large under the protection of armed forces' commanders.

Members of non-governmental organizations and others who seek to promote respect for human rights have increasingly been subjected to threats and intimidation and attacks on their lives. Human rights workers play an essential role in campaigning against impunity, their protection therefore is key to ending impunity in Colombia.

Since its formation in December 1991, members of the Meta Civic Human Rights Committee have received death threats and been the victims of human rights violations. In 1992 four leading members of the Committee were killed. In its second year three members of the Committee were "disappeared". By February 1995 the Committee, which four years previously had represented 32 social organizations, had only seven member-organizations. Faced with continuing death threats many of the members were forced to leave Meta department and the Committee was forced to suspend its activities in early 1995. Josué Giraldo Cardona, President of the Meta Civic Human Rights Committee and a member of the legal opposition party, the *Unión Patriótica* (UP), himself received numerous death threats.

In August 1995, a commission made up of the Committee together with other non-governmental organizations and government representatives, was set up to examine the human rights situation and create a safe area in which human rights workers would have some protection whilst continuing their

work. But the death threats continued and Josué Giraldo was forced to leave the country temporarily. In March 1996, the Committee resigned from the commission complaining that state officials had presented the commission as a means of guaranteeing the safety of human rights workers, which clearly was not the case.

On 13 October 1996, Josué Giraldo was killed outside his home in Villavicencio when a gunman approached him and opened fire. In the wake of the killing, Amnesty International said that the Colombian Government should take immediate action to ensure the safety of human rights workers and political activists. In a statement issued on 15 October, the organisation said: "Time and time again, we have appealed to the Colombian authorities to guarantee the safety of members of the Meta Civic Human Rights Committee and human rights workers throughout Colombia. We have also called on the authorities to ensure that human rights violations are fully investigated and that perpetrators are brought to justice -- perhaps if this had been done, Josué Giraldo would still be alive today."

Little action has been taken by the government to investigate the pattern of threats, harassment and attacks against human rights defenders or to introduce effective mechanisms of protection for those under threat.

The government of President Samper has repeatedly acknowledged the key role of impunity in perpetuating human rights violations. In his human rights program announced in September 1994 President Samper said: "Impunity in Colombia has become a cause of the multiplication and expansion of human rights violations and, in consequence, it should be energetically tackled." A number of measures were announced in the program specifically designed to tackle impunity, including the creation of special human rights units within the *Fiscalía General* (the Attorney General's office) and the reform of the military penal code.

The human rights unit within the *Fiscalía General* began operating in September 1995 with the purpose of concentrating resources on the investigation of a small number of serious human rights violations. The ability of the unit to try and convict perpetrators of extrajudicial executions and other serious human rights violations is, however, severely limited by the practice of the military justice system of automatically claiming jurisdiction over investigations in which members of the armed forces are implicated in politically motivated crimes. The military justice system is the cornerstone of impunity in Colombia. Military courts are not known to be inefficient when enforcing military discipline over offences and infractions unrelated to counter-insurgency operations and have acted quickly and effectively to investigate and punish non-political crimes committed by armed forces' personnel. However, those responsible for politically motivated killings and other human rights violations committed in the context of the civil conflict, have been systematically shielded from justice.

Since the beginning of its term in office the Samper government has failed to take a decisive stance in separating human rights violations from military courts and failed to present to Congress a bill reforming the Military Penal Code in which the government would have to define its position. Instead of taking a strong position in favour of limiting the scope of military jurisdiction, the Colombian Government has introduced a bill to Congress which, if approved, would expand the jurisdiction of the military justice system and enable it to carry out investigations of civilians. By taking such a stance, the Colombian Government has encouraged the development of a climate in which numerous legislative measures are

being proposed by those sectors supportive of the security forces which would strengthen the mechanisms of impunity. One bill, if passed into law, would remove the ability of the Procurator-General's Office to undertake disciplinary investigations of members of the security forces. Another bill, if passed into law, would prevent the Office of the Attorney-General from undertaking penal investigations into members of the security forces.

In April 1996 the Chair of the United Nations 52nd Commission on Human Rights mapped a way for tackling impunity: "The Commission on Human Rights ... encourages the government of Colombia to continue and conclude the process of reform of the military penal code according to the recommendations made by the thematic rapporteurs, in particular as far as the exclusion from the jurisdiction of military courts of crimes against humanity".

It now remains for the Government of Colombia to commit itself to carry out these and other recommendations made by Amnesty International.

## ECUADOR

Over the past years Amnesty International has made reference in its reports to the impunity which surrounds hundreds of unresolved cases of alleged enforced “disappearance”, extrajudicial execution, torture and ill-treatment. The vast majority of such cases, reported in the context of the authorities’ campaign against the armed opposition group, Alfaro Lives, Damn! (*Alfaro Vive, Carajo!*) during the years 1984-1988, have not yet been satisfactorily resolved.

Similarly, the vast majority of reported human rights violations committed by the security forces between 1988 and the present -- in particular the hundreds of cases of torture and ill-treatment, and the dozens of cases of death under torture, death as a consequence of the use of excessive force, and occasional cases of enforced “disappearance” and possible extrajudicial execution -- also remain unresolved.

Efforts to reform the branch of the National Police, *Policía Nacional*, responsible for detaining and interrogating suspects have, for the most part, come to nothing. The Criminal Investigation Service, SIC, (*Servicio de Investigación*) was closed down by presidential order in September 1991, following an inquiry by a government-appointed international commission into the enforced “disappearance”, in January 1988, of teenage brothers Carlos Santiago and Pedro Andrés Restrepo. The commission concluded that members of the SIC were responsible for this case of enforced “disappearance”. Although their bodies were never found, the commission also concluded that the brothers were dead. The commission stated that the SIC’s investigative methods included “systematic torture, arbitrary detention and the use of cruel and inhuman and degrading treatment”. In the wake of the commission’s report, the then president of Ecuador, Rodrigo Borja Cevallos, immediately dissolved the SIC and announced measures to form the Judicial Investigation Police, PTJ, (*Policía Técnica Judicial*).

In the wake of the report published by the international commission, former president Rodrigo Borja extended the mandate of the commission to include the investigation of other past human rights violations by the security forces. However, Amnesty International subsequently learned that the projected investigation was never put into effect.

In view of the repeated failure of the authorities to conduct effective investigations into reported instances of human rights violations, make public the findings, and bring those responsible to justice, Amnesty International has recommended that an impartial inquiry be conducted to identify the factors that have adversely affected or obstructed the authorities in complying with these essential procedures. The prompt, independent and effective handling of individual complaints of human rights violations filed by victims, their relatives or human rights defenders, should be a central part of the inquiry. The inquiry should aim to strengthen legislative and administrative provisions designed to uphold and protect human rights.

Amnesty International has welcomed the recent establishment of the *Comisión Verdad y Justicia*, Truth and Justice Commission, charged with investigating complaints of unresolved human rights violations over the past 17 years. The Commission, which is mandated to publish its report and file its findings and recommendations before the relevant judicial authorities, came into effect on 17 September 1996.

On 26 September, Amnesty International said: "Establishing the full truth about past human rights violations is of critical importance to the victims and their relatives. To bring those responsible for these violations before a judiciary which is independent, competent and impartial, is to lay the basis for ensuring that human rights violations will not in any way be tolerated by the authorities."

The Truth and Justice Commission was established in response to recent complaints about grave human rights violations and subsequent declarations, by newly elected President Abdalá Bucaram, resolving to set in motion a process which will ascertain the facts, punish those responsible, and make good the damage caused.

The Commission is an important first step to putting an end to the impunity surrounding hundreds of cases of enforced "disappearance", extrajudicial execution and torture documented by Ecuadorian and international human rights organizations over the past few years. It could also serve as a basis for ensuring that the victims and their relatives are adequately compensated for the suffering they have been subjected to.

Amnesty International has publicly urged President Bucaram, the institutions of the State and all Ecuadorians to keep watch over the Commission so that it carries out its mandate successfully.

## **EL SALVADOR**

In El Salvador, the General Amnesty Law for the Consolidation of Peace, approved in March 1993, prevents the investigation and prosecution of all those responsible for human rights abuses committed in the context of the civil war (1980-1992). It specifically protects those mentioned by name in the report of the Truth Commission, a body appointed by the United Nations to investigate some of the worst human rights abuses committed during the war.

As a result of the Amnesty Law, the members of the armed forces sentenced in 1991 for the 1989 killing of six Jesuit priests and two members of staff at the Catholic University were released. Immediately after the Law's publication, local human rights groups challenged its constitutionality before the Supreme Court of Justice of El Salvador. However, in what appears to be an abdication of its constitutional powers, the Court ruled that "the Constitutional Chamber of the Supreme Court of Justice does not have jurisdiction over purely political questions", thus rejecting the petition by the human rights defenders.

For its part, the government, in marked contrast to the speed with which it extended impunity for human rights violators, has yet to implement important recommendations by the Truth Commission such as the reform of the judiciary, a thorough investigation into the activities of the "death squads" and the creation of a compensation fund for victims of human rights violations and their relatives.

## GUATEMALA

In the last 30 years Amnesty International has recorded thousands of human rights violations in Guatemala. The victims include indigenous peoples, peasants, trade unionists, human rights defenders, politicians, journalists, students, members of religious orders, returning refugees, internally displaced persons, street children, members of the judiciary and people who were investigating past human rights violations.

The human rights violations documented by Amnesty International include extrajudicial executions, “disappearances” and torture, perpetrated by army and police officers, members of the *Comités Voluntarios de Defensa Civil*, (CVDC), the Voluntary Civil Defence Committees, and military commissioners.

Very few of those responsible for human rights violations have had to answer for their actions in court and impunity has been the general rule. Only in a few cases, which have caught international attention and thus caused a stir in public opinion, have the perpetrators come before a court to stand trial.

It is the view of Amnesty International that a spiral of violence, claiming the lives of tens of thousands of people, has been generated by the belief prevalent among the security forces that torture, “disappearance” and extrajudicial execution have had the support of the chain-of-command or that, at the very least, such violations were tolerated, and not subjected to serious scrutiny. This belief has been reinforced by the fact that state officials who have committed human rights violations have gone unpunished.

During a visit to Guatemala in August 1996, Amnesty International presented the government, by way of the Peace Commission, two memoranda regarding the right to truth and justice for the tens of thousands of victims of human rights violations in Guatemala. Amnesty International, as of October 1996, had not received a reply from the government.

In the “Memorandum to the government on the possibility of an amnesty law” the organization rejected the possible promulgation of an amnesty law that might obscure the truth being known about human rights violations and impede that those responsible be brought before the courts. Amnesty International stated that it is the government’s duty to investigate human rights violations and to bring those responsible to justice, and that the victims and their relatives have the right to receive adequate compensation.

Amnesty International offered a set of principles, based on international standards, that ought to be respected in the eventuality of a debate on the promulgation of an amnesty law for those who committed human rights violations. Among them were: judicial independence; full investigations of human rights violations and abuses; universal jurisdiction and non-prescriptiveness of extrajudicial executions and “disappearances”; chain-of-command responsibility; that “due obedience” should not be used as justification for human rights violations; and the right of victims of human rights violations to receive adequate compensation.

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In addition, Amnesty International requested that previous government promulgations of amnesty decrees granting impunity to those responsible for grave human rights violations such as extrajudicial executions, torture and “disappearance”, be annulled.

In June 1996 more than 20 Guatemalan academic, legal and human rights defender organizations joined together in the Alliance against Impunity for Human Rights Violations, and published an “open letter to the president, Congress deputies, members of the Peace Commission and the URNG [Guatemalan National Revolutionary Unity] General Command”, in which they manifested their opposition “to the new decree for a general amnesty, and any other legal device that may foster impunity... Our position is based on the effects that previous general amnesty decrees have had in fostering impunity, and in the loss of the citizens’ trust in the application of justice”. In addition the Alliance indicated that “the amnesty is questionable in the eyes of international human rights law” and ended demanding that “the Guatemalan state fulfill its obligation to morally and economically compensate the relatives and the victims who have suffered human rights violations”.

The Association of Relatives of the Detained-Disappeared of Guatemala, FAMDEGUA, in collaboration with the Centre for Legal Action on Human Rights, CALDH, on 7 August 1996 submitted to the Inter-American Commission on Human Rights a request “against the Republic of Guatemala for violations of the American Convention on Human Rights and other international instruments because of the incompatibility of Amnesty Decree 8-86 with the American Convention on Human Rights”.

In a second Memorandum presented by Amnesty International to the Guatemalan Government, the organisation referred to the Commission for the Historical Clarification of Human Rights Violations and Acts of Violence which have Caused Suffering to the Guatemalan People (*La comisión para el esclarecimiento histórico de las violaciones a los derechos humanos y los hechos de violencia que han causado sufrimientos a la población guatemalteca*), signed between the government and the URNG on 23 June 1994. This Commission will be formed and will begin work after completion of the Peace Accords.

Amnesty International is of the opinion that the ambiguity of the Commission’s mandate could limit its investigation and the procedures to be followed. The organization is also concerned about the fact that the Commission’s conclusions will not have judicial aims or effect. In its Memorandum to the Government Amnesty International presented a series of recommendations regarding the investigation of human rights violations and the appearance in court of perpetrators, as well as recommendations concerning the Commission’s composition, power and methodology.

During investigations into the 1990 killing of anthropologist Myrna Mack, relatives, lawyers, judges and judicial officials, witnesses, journalists and virtually anyone else associated with the case were threatened and harassed. In August 1991 the police commissioner in charge of the investigation was shot dead in front of the National Police Headquarters.

In October 1995 a Public Ministry researcher working on the case was reportedly put under surveillance by the National Police after visiting the Ministry of Defence to ask why the Ministry had not replied to a petition for information submitted by the victim’s sister, Helen Mack, and to ask why the

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Ministry, which is responsible for collecting evidence, had not taken testimonies from several people allegedly implicated in Myrna Mack's murder.

Judge María Eugenia Villaseñor is an appeals court judge who wrote a book critical of the handling of the case by the judicial system. The judge has also been involved in other human rights cases, and has been subjected to repeated death threats and acts of intimidation. She once had to flee the country, and in 1994 a police officer assigned to protect her was himself abducted, beaten and threatened. Judge Villaseñor was eventually transferred to Antigua, department of Sacatepéquez where she is now hearing only civil cases, although her expertise lies in criminal law. The threats against her continue, and she fears for her safety.

On 18 March 1996 the Supreme Court denied a petition from Myrna Mack's sister to transfer the case to a civil court and resolved that a military judge should continue hearing the case against high-ranking armed forces officers charged with intellectual responsibility for Myrna Mack's murder. On 11 July 1996 the alleged intellectual authors were released on bail. Amnesty International fears that those responsible may continue to benefit from impunity, given that on 30 July 1996 Judge Ennio Ventura ordered that the proceedings against the intellectual authors had to be conducted under the old penal code, a decision which would require the proceedings to start again. The UN Mission for the Verification of Human Rights in Guatemala (MINUGUA) verified in its report of August 1996 that some witnesses and investigators continued to be followed and that the case was being heard in a climate of insecurity for those bringing the case against armed forces personnel implicated in the killing.

A further case of concern to Amnesty International is that of CERJ member Martín Pelicó Coxic who was abducted, tortured and killed in June 1995; forensic reports showed that he had head injuries and had been asphyxiated. Martín Pelicó from San Pedro Jocopilas, El Quiché department, had left his local CVDC three years earlier and had refused to pay the fines imposed by the CVDC leadership for non-participation, and as a result was labelled a "subversive". The day he was killed, he had left his community at 3pm to buy parts for his car. Six hours later his body was thrown from a pick-up truck some 150 metres from his home. Witnesses identified the three men in the pick-up truck. The three, a military commissioner and two members of the CVDC all from San Pedro Jocopilas, were subsequently arrested and charged with homicide, but were released in July 1996 when the case was closed.

Martín Pelicó's wife and prosecution witnesses have been threatened by unidentified men and relatives of the accused. The lawyers acting for the Pelicó family have been followed by unidentified men. Two of those accused of killing Martín Pelicó are also implicated in the killing of Diego Velásquez Soc, a CERJ member from San Pedro Jocopilas who was shot and killed in May 1993. However, despite eyewitness identification of the perpetrators, no charges have been brought against them. Pedro Velásquez, Diego Velásquez' brother, has reported persistent harassment by members of the CVDC who come to his house in the early hours of the morning firing their rifles.

There is a long tradition of impunity in Guatemala. Only a very few cases of the tens of thousands of human rights violations that have taken place in Guatemala over the past three decades been investigated and only a handful of the perpetrators have been brought to justice. Attempts at investigation of human rights violations have met with systematic resistance by the security forces and also by those state institutions responsible for carrying out the investigations. In the few cases where investigations have

taken place, it is largely due to the courage of local human rights defenders and victims' relatives in pressing for prosecutions.

## HAITI

In February 1996, René Préval took over the presidency from Jean-Bertrand Aristide following elections in late 1995. At that time, the final report of the National Commission for Truth and Justice, which was set up by former President Aristide to investigate human rights violations committed under the *de facto* military government of General Raoul Cédras between September 1991 and October 1994, was handed over to the government. So far only the conclusions and recommendations of the report have been published though it appears that the full report may soon be available. However, as far as Amnesty International is aware, none of the recommendations made in the report, which reportedly documents several thousand cases of human rights abuses, has been implemented.

A draft bill on judicial reform was presented to parliament in September 1996 but progress in this field continues to be unacceptably slow. Consequently, little further progress has been made in bringing to justice those responsible for past human rights violations. Other impediments that have hindered attempts to seriously challenge impunity in Haiti are the continued refusal of the US authorities to return former *Front pour l'avancement et le progrès d'Haïti* FRAPH leader Emmanuel Constant to Haiti, where several arrest warrants have been issued against him, despite a deportation order to that effect and their failure also to return intact some 60,000 pages of documents which had been removed from the FRAPH offices by US troops in October 1994. Some of the documents, from which all sensitive information concerning US citizens has reportedly been removed, have or will be sent to the US Embassy in Haiti to await the formalization of an agreement with the Haitian Government regarding their return. According to the US State Department, the US authorities want assurances that the documents will not be used to justify political killings or acts of vengeance on Haitians who collaborated with the military government. Up until now, the Haitian Government has insisted that the documents should be handed over to them in their original state.

The following is an extract from a document published in January 1996 about the question of impunity in Haiti:

Upon returning to Haiti, President Aristide said, "We shall prepare the coffee of reconciliation through the filter of justice". While calling for patience and admitting that the system is slow, he has subsequently on several occasions urged Haitians to present formal complaints against those suspected of committing human rights abuses in the past and called on them to denounce corrupt officials. Special offices called *bureaux de doléances*, complaints offices, were set up in some places to receive such complaints. However, as far as Amnesty International is aware, few such complaints have been adequately investigated by the authorities so far. The government itself announced that it would be seeking the assistance of a team of foreign lawyers to help with the investigation of several important cases of human rights violations that had occurred under the military régime. To Amnesty International's knowledge, trials have been completed in only two cases (see below).

The need to strengthen the judiciary and the capacity of the police to investigate crimes is clearly urgent in order to guarantee respect for human rights in the present and the future. However, of equal importance is the need to bring to justice as soon as is reasonably possible those responsible for human rights violations committed in the past, not only during the rule of General Cédras but also under previous administrations. Speaking at a news conference on 15 March 1995, President Aristide said that the

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Haitian Government's request for FRAPH leader Emmanuel Constant to be extradited from the USA to stand trial in Haiti was "a way of showing what justice means to us. We do not want impunity to spread throughout the country. Just as we reject vengeance and violence, we also reject impunity. Impunity means that I can kill people and the justice system does not punish me. We want to build a system, based on the law, that is able to question those people believed to be guilty, for subsequent trial in the courts."<sup>2</sup>

Despite such statements of intent by President Aristide, so far little progress has been made in bringing the perpetrators of human rights violations to trial. While this can in part be attributed to the general problems facing the justice system, some judges are reportedly frightened to try such cases for fear of reprisals, especially once the UN forces leave the country. There are also signs that the political will to do so does not truly exist, particularly at the level of the police and the judiciary. Trials have taken place with regard to only two of the cases in which the government had sought the assistance of foreign lawyers, that of the death from torture of Jean-Claude Museau in 1992 and the extrajudicial execution of Antoine Izméry in September 1993. Both trials were held in the absence of most of those alleged to be responsible for the two killings and only one man is currently serving a prison sentence.

A few other less prominent cases are believed to have been brought to trial in the provinces as the result of complaints presented by victims or their relatives but details are hard to obtain. Investigations are continuing into a number of other well-known cases, but again progress is slow. Apart from the case of Emmanuel Constant, the Haitian Government appears to have made little effort to seek the extradition from other countries of those alleged to have been responsible for human rights violations under the military government or previous administrations.

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Text of report by Haitian Métropole radio, originally in créole, as reported in English by the BBC Summary of World Broadcasts, 18 March 1995

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## HONDURAS

The struggle against impunity continues in Honduras, despite the strong opposition from those responsible for past human rights violations. It was given an important boost in July 1995 when the *Fiscalía Especial de Derechos Humanos del Ministerio Público*, Special Prosecutor for Human Rights of the Public Ministry, charged ten military officers (in active service and retired) with human rights violations against six students in 1982. The response of the military to the charges has been to argue that they cannot be subjected to trial because they are covered by amnesty laws approved by the National Congress, a claim strongly opposed by human rights organizations and professional bodies, among others.

The judicial proceedings continued with arrest warrants against three of the ten officers who immediately went into hiding, allegedly helped by fellow military personnel. Court proceedings created a public uproar when the Appeals Court ruled in favour of the officers' claim that they should benefit from the amnesty laws but this decision was later overturned by the Supreme Court of Justice.

The role of the judiciary has been of paramount importance because of the impact that decisions in this case would have on the cases of the 184 "disappeared" identified in the report of Dr. Leo Valladares Lanza, the *Comisionado Nacional de Protección de los Derechos Humanos*, Human Rights Commissioner, entitled: *Los Hechos Hablan Por Si Mismos* ("The Facts Speak For Themselves"), published in 1993.

The efforts to investigate and clarify the fate of the "disappeared" have also seen important developments with regards to these cases. Following those carried out in 1994, there were further exhumations during 1995 of remains of victims of "disappearances", initiated by the Special Prosecutor for Human Rights and local human rights organizations with the cooperation of forensic experts from various countries. By the end of the year, nine bodies had been exhumed.

There was little progress in other cases of past human rights violations going through the courts and human rights defenders continued to receive threats for their efforts to bring those responsible for past human rights violations to justice.

## MEXICO

Despite repeated statements to the contrary by the Mexican Government, impunity for perpetrators of gross human rights violations continues to prevail. Even highly publicized cases of serious human rights violations which triggered widespread public outcry have remained unresolved.

Court sentences punishing those responsible for human rights violations hardly exist in Mexico. Officials accused of torture and ill-treatment, or other gross human rights violations, are frequently transferred or even promoted to other jurisdictions or departments - a fact acknowledged by government officials.

The dramatic increase in the number of threats and attacks against Mexican human rights defenders during the past four years has thrown into sharp relief the extent to which impunity fuels the cycle of human rights violations.

In May 1990 the administration of President Carlos Salinas de Gortari faced a wave of national and international criticism following the apparent extrajudicial execution of Dr. Norma Corona Sapién, chairperson of the independent Sinaloa Commission for the Defence of Human Rights. Norma Sapién was killed on 21 May 1990 by unidentified gunmen in Culiacán, capital of the State of Sinaloa. She was reportedly killed because of her investigations into the involvement of judicial police officers in the abduction, torture and killing of a Mexican lawyer and three Venezuelan University teachers. In March 1990 Norma Sapién had received several death threats. She believed the threats came from local judicial police officers.

Norma Sapién was killed on the eve of the initial talks between Mexico, USA and Canada for the signing of the North American Free Trade Agreement (NAFTA). The public outcry which followed her death forced the Mexican Government to adopt swift measures to improve its human rights image. President Salinas promised to stop human rights violations in Mexico and to end the impunity enjoyed by those responsible. The government created the National Human Rights Commission (CNDH), and adopted legal and administrative measures designed to prevent human rights violations.

Nevertheless, human rights violations continued virtually unabated. The fact that human rights violations have continued despite legislative and administrative improvements, including the creation of the *Comisión Nacional de Derechos Humanos* (CNDH), the National Human Rights Commission, and the establishment of governmental human rights commissions in every state, has fuelled speculation that the government's professed commitment to human rights is merely a public relations exercise. The growing number of attacks suffered by human rights defenders would support this view.

One of the first tasks of the CNDH was to investigate the murder of Norma Sapién, publicize its findings and make recommendations to the relevant authorities; the CNDH does not have the power to bring prosecutions. Several police agents, including a high-ranking federal judicial police officer, were arrested and charged with her murder, although the investigations were marred by serious irregularities, including the extraction of confessions under torture. The judicial police commander is still in prison awaiting sentencing despite the lack of evidence linking him to the murder. Under Mexican law the courts

must issue a sentence within one year of arrest. This has led to accusations that some of those arrested may be scapegoats.

The impunity enjoyed by those responsible for the threats and attacks on Mexican human rights defenders is a very serious problem. The authorities have denied all responsibility for these abuses but have failed to fully investigate such cases or punish those responsible.

The consequences of the denial of the right to justice for victims of human rights violations are well illustrated in the case of the state of Chiapas. For decades Amnesty International has documented serious human rights violations by state agents there. Those responsible have rarely been brought to justice, and the impunity granted to the perpetrators has prompted continuing abuses. As acknowledged by some government officials, this has further curtailed the rights of the victims, most of whom are Indian peasants, forcing sectors of an otherwise peaceful local population to resort to violent means to demand the respect of their Constitutional rights.

Amnesty International has noted that some of those responsible for the June 1995 execution of 17 peasants in Guerrero, including two police commanders, were remanded in custody shortly after the incident, pending trial, and that the CNDH carried out an extensive investigation into the case. The CNDH's findings were published on 14 August 1995 in a 360-page report, which revealed evidence of official responsibility for the killings, and documented serious irregularities in the initial investigations carried out by the state criminal justice system in a bid to avoid prosecution of those responsible. These included: fabrication of evidence, such as the planting of firearms at the crime scene in order to support official claims of an armed confrontation, and the falsification of forensic reports. At least eight high state government officials were suspended from duty following the publication of the report.

While Amnesty International welcomes the steps adopted by some authorities to investigate the Guerrero massacre, the organization has noted with concern that, to date, the relatives of the victims of the massacre had not received compensation, and that a significant number of those reportedly responsible for masterminding the killings had not been brought to justice. In September 1995 the CNDH reported that its recommendations on the case had not been fully implemented, a situation which has prevailed to date.

Amnesty International believes that only a firm political decision by the Mexican Government to eliminate impunity will make it possible to eradicate the long-lasting practice of torture and other gross human rights violations, and to restore the full protection of human rights to all sectors of the Mexican population.

## NICARAGUA

At the time of the general elections held in Nicaragua on 20 October 1996, Amnesty International wrote an open letter to the presidential candidates calling on them to commit themselves to protecting and promoting the human rights of all Nicaraguans. It also urged whoever the electorate chose as leader for the next five years to respect unconditionally those rights.

Below is a statement made by Amnesty International concerning human rights violations and impunity:

Human rights abuses were committed by the authorities and armed groups during the war between the Sandinista government and the armed opposition, which ended in 1990. Reports of human rights violations were also recorded between 1990 and 1995. During 1995, at least nineteen people died in circumstances suggesting that they may have been extrajudicially executed: In one incident, known as La Marañososa, 13 *recontras* (ex-members of the armed opposition Nicaraguan Resistance, or *contra*, which regrouped after the war under this name) and two soldiers were killed in Cuesta La Marañososa, Wiwili, department of Jinotega, on 6 January 1995, in a massacre that appears to have been perpetrated by members of the army. Moreover, on 17 May 1995 police shot dead two members of a cooperative which were participating in a demonstration at *Semáforos de Rubenia* (traffic lights at Rubenia), in Managua and in December two students, who were demonstrating for university funding, were killed by the security forces.

In the case of La Marañososa, for example, local human rights organizations and the Commission for Human Rights and Peace of the National Assembly concluded that the investigations carried out had been superficial. The judge of the Criminal Court, Jinotega district, absolved 23 soldiers because she concluded that the evidence was not enough to prove criminal intent. Despite calls for a thorough investigation of the case in order to identify those responsible for the deaths, impunity still prevails.

The level of violence in the area most afflicted by conflict in the 1980s (a stretch of land running east-west along the middle of the country) has again increased, creating unease and fear among inhabitants who are being targeted by armed groups. The victims include people from across the political spectrum - members and sympathizers of the *Frente Sandinista de Liberación Nacional*, FSLN and of the *recontras* - as well as leaders of peasant cooperatives.

It is vital that the authorities take the necessary measures to end the climate of violence in which human rights violations are committed against those who live in the affected area. Amnesty International is aware that in the area (as in other parts of the country) politically motivated actions and criminal acts can be difficult to distinguish. However, the organization considers that the authorities must investigate all acts of violence and ensure that human rights violations do not go unpunished.

The National Police is also responsible for serious human rights violations, including the right to life. Many individual cases have been documented in which people who posed no threat to law enforcement officials were killed when they could have been apprehended. It is crucial that members of the National Police are given the necessary training, including knowledge of human rights issues and how to apply such knowledge in the course of their duties. Essential elements in training should be the study

of the *Code of Conduct for Law Enforcement Officials* and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. The authorities must also take the necessary measures to investigate any human rights violations by members of the National Police, and ensure that those found responsible are brought to justice.

## PERU

During the past 16 years thousands of Peruvians have been the victims of widespread and systematic human rights violations at the hands of Peru's security forces. In only a handful of cases have those responsible been brought to justice and punished. Impunity for human rights violations has characterized the policies of four successive Peruvian governments.

Throughout these years impunity became institutionalized but was never officially recognized. That changed in June 1995 with the passing of Peru's amnesty law. The amnesty law pardoned all members of the security forces and civilian officials for their involvement in human rights violations committed between May 1980 and mid-June 1995. The authorities justified the amnesty law as a measure which would contribute towards the "pacification and national reconciliation" of Peru.

On 14 June 1995 the Peruvian Congress passed Law N° 26,479, Article 1 of which grants 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 15 June 1995.

Amnesty International has documented thousands of cases of "disappearance", extrajudicial execution and torture perpetrated by members of the security forces since 1980. In only a handful of these cases have those responsible been brought to justice. As of 16 June 1995, the day the amnesty law came into effect, all of these cases were effectively closed. Impunity, which nurtures the vicious circle of violence in which human rights violations go unpunished, has been institutionalized in Peru for more than a decade. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions observed in his report of his 1993 visit to Peru that there is compelling evidence that the "institutionalization of impunity in Peru [is one of] the main problems with regard to [a lack of respect for] the right to life". In mid-1995 the Peruvian authorities took forward this "institutionalization of impunity" by ensuring that impunity entered into law.

President Fujimori has repeatedly pledged his government's respect for human rights. However, closing all investigations into human rights violations by the promulgation of the amnesty law does not reflect these pledges. The effective investigation of human rights abuses is essential if the full truth is to emerge. Victims, their relatives and the society at large all have a vital interest in knowing the truth about unresolved human rights violations. In addition, bringing the perpetrators to justice sends a clear message that violations of human rights will not be tolerated and that those who commit such acts will be held fully accountable.

The effect of the amnesty law is that thousands of victims of gross human rights violations and their relatives are unlikely ever to know the full truth. Their voices, and those of human rights defenders who have continuously urged the Peruvian authorities to investigate human rights violations and bring the perpetrators to justice, will go unheard.

The Peruvian authorities have been determined to ensure that the amnesty law remains in effect. On the day the law came into effect, the judge in charge of investigating the 1991 Barrios Altos massacre,

in which 15 people were killed, courageously ruled that the amnesty law was inapplicable to this case. However, on 28 June 1995, before her ruling reached the High Court for ratification or veto, Congress passed yet another law which reinforced the first amnesty law. This second law, Law N°26,492, prohibits the judiciary from ruling on the legality or applicability of the amnesty law. Thus Congress effectively blocked the examining judge's ruling. This second law contravenes in spirit and in practice Principles 3 and 4 of the UN Basic Principles on the Independence of the Judiciary, adopted by the UN General Assembly in 1985, which state that: "The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law", and that "There shall not be any inappropriate or unwarranted interference with the judicial process...".

Most recently, further critical observations on Peru's Amnesty Laws have been made by the UN Committee on Human Rights. During its 57th Session in July 1996, the Human Rights Committee initiated its consideration of Peru's third periodic report. On 25 July 1996 the Committee published its Preliminary Observations. Among its concerns the Committee stated that it was: "Deeply concerned that the amnesty granted by Decree (sic) Law 26,479 on 14 June 1995 absolves from criminal responsibility and, as a consequence, from all forms of accountability, all military, police and civilian agents of the State who are accused, investigated, charged, processed or convicted for common and military crimes for acts occasioned by the "war against terrorism" from May 1980 until June 1995. It also makes it practically impossible for victims of human rights violations to institute successful legal action from compensation. Such an amnesty prevents appropriate investigation and punishment of perpetrators of past human rights violations, undermines efforts to establish respect for human rights, 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 and is thus in violation of article 2 of the [International] Covenant [on Civil and Political Rights]. In this connection, the Committee reiterates its view, as expressed in its General comment 20 (44), that this type of amnesty is incompatible with the duty of States to investigate human rights violations, to guarantee freedom from such acts within their jurisdiction, and to ensure that they do not occur in the future."

Amnesty International believes that impunity negates the values of truth and justice and leads to further human rights violations. Peru's two amnesty laws, which have the effect of preventing the emergence of the truth and subsequent accountability before the law, are unacceptable. Victims of human rights violations and their relatives have the right to know the truth and to be given fair and adequate redress for the suffering to which they have been subjected.