

PERU

Torture continues unabated

This report documents cases of torture and ill-treatment, including death in custody, which Amnesty International has received since the Peruvian authorities took a step towards the eradication of torture in February 1998. In February 1998 Congress passed Law N° 26926, which modified Peru's Criminal Code by introducing and criminalizing torture as a crime in itself.

In September 1999 Amnesty International published *Peru: Legislation is not enough. Torture must be abolished in practice*, in which the organization expressed concern that despite having made torture a punishable offence since February 1998 it continued to be widespread in the country. A year after this report was published, Amnesty International continues to be seriously concerned at the widespread use of torture and ill-treatment by members of the security forces.

The cases presented in this follow-up report speak for themselves. The prevalent forms of torture which Amnesty International has documented during the past two years included electric shocks, submergence of the head in water, insertion of external objects into the anus of the victim, the use of objects to hit the victims with and blows to the body using punches and kicks.

Since 1998 in only two cases have the perpetrators been sentenced for the crime of torture under the February 1998 legislation¹. The organization is concerned at the lack of effective investigations into complaints surrounding allegations of torture under this legislation. For example, there are cases which are still referred to military courts², which in the words of the United Nations Special Rapporteur on Torture "make[s] no sense at all in cases where members of the security forces have seriously violated a civilian's basic human right. Such an act is an offence against the public civil order and, consequently, should be tried by a civilian court"³. In other instances the February 1998 legislation which criminalizes torture is not invoked and charges such as "abuse of authority", "*abuso de autoridad*", are filed instead. In addition, victims and their relatives are frequently intimidated, harassed and threatened and subsequently withdraw accusations in fear of reprisals.

Peru is a state party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In November 1999 the Committee against Torture, CAT, reviewed Peru's third periodic report. The Committee concluded, *inter-alia*, that "the State party should

¹ See the cases of Pablo Pascual Espinoza and Huber Mendez Barzola below, pages 6 and 7.

² See the case of Carlos Orellano Mallqui below, page 14.

³ UN Doc. E/CN.4/1990/12, *Infra*.271, p.83.

ensure vigorous investigation and, where appropriate, the prosecution of all reported instances of alleged torture and ill-treatment by its authorities, whether civil or military."⁴

In November 2000 President Alberto Fujimori was declared by Congress "morally unfit" to run the country. President Valentín Paniagua was sworn in on 22 November 2000 to oversee a government of transition until a new president is elected and sworn in July 2001. President Valentín Paniagua's transitional government has pledged to reestablish the rule of law and promote and protect human rights in the country.

In October 2000 Amnesty International adopted a 12-Point Program as a program of measures to prevent the torture and ill-treatment of people who are in governmental custody or otherwise in the hands of agents of the state. Amnesty International calls on President Valentín Paniagua's government to implement this 12-Point Program (see page 16). The organization is aware that some of the points in the Program have already been implemented. For example, torture has been prohibited in law, and international treaties containing safeguards against torture have been ratified by the State. However, Amnesty International believes that ALL the measures contained in Amnesty International's Program need to be implemented if the new government is to give a positive indication of its commitment to uphold in practice the fundamental human right not to be tortured.

CASE N° 1

PEDRO TINTA VERA AND JUAN DOMINGO CERRÓN NUÑEZ

On 20 March 1999, Pedro Tinta Vera, also known as Pedro Pinglo Taboada, was detained by members of the Peruvian National Police of Puente Piedra, Lima department, together with Juan Domingo Cerrón Nuñez and another person on suspicion of *terrorismo agravado* (aggravated terrorism) offences⁵. The three men were taken to the *Dirección Nacional de Investigación*

⁴ UN Doc. CAT/C/XXIII/Concl.4, 15 November 1999.

⁵ In May 1998 Decree N° 895, "Law against aggravated terrorism", "*Ley contra el terrorismo agravado*" came into effect. Aggravated terrorism under this legislation is described as "any person who is a member or an accomplice of a juvenile gang, association or criminal group who carries or uses weapons of war, grenades and/or explosives to commit theft, kidnap, extortion, or crimes against the life, integrity or health, crimes against property, crimes against individual liberty, and crimes against public security, ..., even if he commits the crime on an individual bases" (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*

Criminal (DININCRI), the branch of the National Police for criminal investigation, where they were held for 19 days.

According to reports received by Amnesty International, once in the DININCRI's building, the three detainees were taken to the *División Anti-Secuestros* (DEVISE), the anti-kidnapping police office, where in order to extract a confession from them, the police beat the men up, submerged their heads in water and applied electric shocks to their bodies.

As a result, Pedro Tinta had his right shoulder-blade fractured. Juan Domingo Cerrón Nuñez suffered internal bleeding. His body was left covered in bruises and his asthmatic condition worsened. As a result of the heavy beatings to his head, Juan Domingo Cerrón cannot feel the right side of his face.

On 5 October 1999, the *Fiscal Provincial*, provincial prosecutor, presented an accusation against the three police officers for the crime of torture.

On 18 October 1999, a civilian court judge in Lima issued an order of detention against the three policemen involved in the torture of Pedro Tinta and Juan Domingo Cerrón. The three officers appealed against this detention order which was accepted by the High Court and converted from an order of detention to an order to appear in court. At the end of October 2000 the police officers had not yet appeared in court. In addition, Amnesty International has received information that one of these three police officers has now been promoted to the higher rank of Commander of the Peruvian National Police.

CASE N° 2

CATALINO and SANTOS DAGA RUIZ

According to reports, on 23 June 1999, two police officers attached to the police station of the town of Huamachuco, La Libertad department, detained two brothers, Catalino and Santos Daga Ruiz, on suspicion of theft. The detainees were blindfolded and taken in a van to the police station.

During questioning at the police station, Catalino Daga was reportedly tortured and ill-treated by the police whilst his brother was forced to look on through a window unable to help. Catalino Daga was thrown onto the floor with his hands tied behind his back, and whilst being held by one of the officers who had arrested him, had his feet whipped by another. Then, restricted by the

contra la libertad individual; y delitos contra la seguridad pública, ..., aunque para la comisión del delito actúe en forma individual."

arms and legs, Catalino Daga had his face submerged in a basin of water. Later both brothers were taken to an unknown location where they were kicked and beaten with the butt of a gun before being taken back to the police station.

In November 1999, after a medical examination stated that both persons showed signs of having been tortured, Catalino and Santos Daga filed charges for the crime of torture against the two policemen who had detained and ill-treated them. A judicial investigation into the allegation was opened, the results of which were not known to Amnesty International by the end of November 2000.

CASE N°3

LUIS ALBERTO TAIPE HUAMANÍ

According to reports, on the 27 September 1999, Luis Alberto Taipe Huamaní, aged 13, was tortured whilst being detained in the *División Especializada contra el Terrorismo y Antidrogras de la Policía Nacional* (the National Police Specialized Division against Terrorism and Drugs) in the province of La Merced, Junín department.

The minor, alleged to have committed a crime against private property (*delito contra el patrimonio*), was confined for four days in a communal cell with adults. His police statement was written without either his lawyer or a representative of the Public Ministry being present. He was hit with a rubber stick in the face and on the soles of his feet.

Luis Alberto Taipe Huamaní's case was taken up by the *Defensoría del Pueblo*, Ombudsman's Office, following a medical report which stated that Luis Alberto Taipe had been tortured. The Office of the Ombudsman recommended that the minor file charges of torture against the policemen concerned. However, the prosecutor in charge of the case concluded that there was no case to answer.

CASE 4

WALTER MUNÁRRIZ ESCOBAR

On 20 March 1999, Walter Munárriz Escobar was detained and taken to the police station, in Lircay, Huancavelica province, Huancavelica department, on suspicion of having stolen goods from a local hotel. He has not been seen since.

According to witnesses who were detained in the police station at the same time, Walter Munárriz Escobar was tortured. The witnesses have stated that they heard his cries of pain as he was hit, and his requests to the policemen to end the torture.

When the mother of Walter Munárriz Escobar went to the police station to enquire as to the whereabouts of her son, she was told that he had left the station in the early morning in the direction of home.

On 22 April 1999, a judicial investigation into the alleged forced disappearance was initiated. The examining judge ordered the detention of two policemen ruling that they were responsible for the "disappearance" of Walter Munárriz Escobar.

By the end of November 2000 the case had not yet been heard in the High Court. On 1 June 2000, the prosecutor in charge of the case recommended that they serve 15 years imprisonment. During the time Walter Munárriz' family has been campaigning for truth and justice they have reportedly been victims of threats and intimidation.

CASE N° 5

LUCAS HUAMÁN CRUZ and ZÓSIMO LUNAZCO

On 1 September 1998, farmers Lucas Huamán Cruz and Zósimo Lunazco were detained on suspicion of theft and taken to San Francisco police station, in the province of La Mar, Ayacucho department. According to reports, both men were allegedly beaten in order to force them to confess to the crime of theft and were released four hours later. Lucas Huamán Cruz died the next day.

According to the autopsy report, the cause of death was due to "hypovolemic shock" (shock due to lack of liquids or due to too little volume of blood) with "rupture of the liver". The medical examiner described the following findings: "Swelling of the eyelids; bloody secretion from the nose; generalised edema on the thorax; inflamed testicles; bloody blister on the lower level limbs; evidence of a haemorrhagic zone of the foot: internal haemorrhage in the abdominal cavity; rupture of the liver measuring 10cm in diameter and 1 cm 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 was detained. In May 1999, the provincial prosecutor in charge of the case stated that “there is evidence that the accused is responsible for the crime of torture”, “*está plenamente acreditada toda responsabilidad penal del inculpado...como autor del delito de tortura*”. However, the examining judge concluded that there was insufficient evidence and in October 1999 the policeman was absolved. Lucas Huamán’s family appealed before the Supreme Court of Justice against this decision. The Supreme Court of Justice ruled that the sentence absolving the policeman should be annulled and ordered a retrial. By the end of November 2000 the new trial had not yet been completed.

According to information received by Amnesty International, Lucas Huamán’s son, Marcos Huamán, has received death threats since filing a complaint against the police for the death of his father.

CASE N°6.

PABLO PASCUAL ESPINOZA LOME

On 16 January 1999, Pablo Pascual Espinoza Lome, a prisoner in Yanamilla prison, in the town of Ayacucho, Ayacucho department, was forcibly taken by two prison officers and accused of having consumed alcohol. He was then taken to a cell where he was reportedly punched in the stomach and the spleen.

Pablo Pascual Espinoza Lome later died as a consequence of the injuries inflicted by the prison officers. The autopsy report revealed a ruptured spleen to be the cause of death.

In January 1999 an investigation was launched into his death. In August 1999 the High Court in Ayacucho sentenced one officer to 12 years imprisonment and absolved the other. On appeal, the Supreme Court increased the first sentence to fifteen years and ordered a new trial to investigate the involvement of the second officer who had been absolved.

In August 2000 the criminal court in Ayacucho sentenced the second officer to four years imprisonment for the crime of torture.

This was the first time that members of the security forces were sentenced under the February 1998 legislation which criminalizes torture.

According to information received by Amnesty International, Pablo Pascual Espinoza’s wife was followed and intimidated by unknown persons since the trial started in January 1999.

CASE N° 7

HUBER MENDEZ BARZOLA

On 5 March 1999, Huber Méndez Barzola, a 16-year-old secondary pupil was stopped by the police 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”⁶. 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 “*pandillaje pernicioso*” (belonging to a criminal gang).

Huber Méndez was then transferred to the police station in 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 Supreme Court of Justice ratified the sentence handed down to both men in August 2000 and sentenced them both to six years imprisonment and the payment of a civil redress.

This was Peru’s second sentence handed out under the February 1998 legislation which criminalized torture.

During the legal proceedings, Huber Méndez was reportedly being followed by unknown persons and his family received intimidatory messages.

CASE N° 8

ESTEBAN MIÑÁN CASTRO

On 14 November 1999, Esteban Miñán Castro reportedly died as a consequence of torture inflicted on him by prison officers in Tambo de Mora prison, in the province of Chincha, Ica department.

⁶ See footnote 5, page 2 of this report, for an explanation on the crime of "aggravated terrorism".

The prison doctor confirmed that Esteban Miñán Castro had died in a room in the prison where he had been forcibly taken and beaten by prison officers. According to reports, the autopsy revealed that Esteban Miñán Castro had died due to severe wounds.

Charges against the prison officers were originally filed as crimes against the administration of justice and abuse of authority ("*delito contra la administración de justicia y abuso de autoridad*") However, in November 1999, the human rights organization representing the family filed a request to change the charges against the prison officers to that of torture causing death (*tortura seguida de muerte*).

In May 2000 the High Court of Chincha ordered the detention of the officers implicated in the case under suspicion of having committed the crime of torture. However, the prison officers went into hiding. In November 2000 the prosecutor in charge of the case recommended that four prison officers should be sentenced to five years imprisonment. The High Court has ordered the police to detain the officers so that they can be brought to trial. By the end of November 2000 the prison officers were still at large.

CASE N°9

PABLO WALDIR CERRÓN GONZÁLEZ

According to information received by Amnesty International, Pablo Waldir Cerrón González was arrested without a warrant on suspicion of debt at his home in Huamachuco, La Libertad department, on 4 September 1998. He was then taken by the police before being taken to Huamachuco police station. Pablo Waldir Cerrón González was reportedly hit on the head, back, stomach, and ribs with a stick and the butt of a gun; his head was submerged in a basin of water and violently withdrawn three times causing a nasal haemorrhage. He was locked in a cell all night and released only after paying a fine.

Pablo Waldir Cerrón González filed a complaint against members of the police for the crime of torture. According to the latest information received by the organization a judicial investigation was initiated but Amnesty International does not know the results of this investigation.

CASE N° 10

LUIS BELTRÁN CASTILLO

According to information received by Amnesty International, on 21 October 1998, Luis Beltrán Castillo was arrested by two policemen because he was drunk in the Plaza de Armas in the town of Vilcashuamán, Ayacucho department. He was beaten until he lost consciousness.

In December 1998, the examining judge formally opened investigations for the crime of torture against the two policemen and ordered their detention. However, according to reports, Luis Beltrán Castillo and his family were intimidated and harassed by the two policemen and consequently decided to withdraw the charges against the policemen. The investigation has been closed.

CASE N° 11

MOISÉS PACCO MAYHUA

On 30 August 1999, Moisés Pacco Mayhua was offered a job at the police station in Macusani, in the province of Puno, to help in the kitchen during a celebration.

According to the information received by the organization, on that same day Pacco Mayhua was tortured by two policemen who accused him of stealing from the police station. He died early the next morning. The autopsy revealed the cause of death to be intra-abdominal trauma, hypovolemic shock, and internal haemorrhaging (*traumatismo intra-abdominal, shock hipovolémico y hemorragia interna*).

On 8 September 1999, charges of torture causing the death of Pacco Mayhua (*el delito de tortura seguida de muerte*) were filed against the policemen involved, and a judicial investigation was formally opened into his death. The judge in charge of the investigation has ruled that there was evidence of torture having been committed. Two police officers have been ordered to appear in court. By the end of November 2000 the police officers had not yet appeared in court.

CASE N° 12

HUMBERTO ZEVALLOS MATOS

According to report, on 16 June 1999, Humberto Zevallos Matos was detained on suspicion of theft and taken to Aucayacu police station, in Huánuco department. He was then conducted to an office within the police station to have his statement taken. He was reportedly tied to a wooden post and hit on various parts of his body and head. Umberto Zevallos Matos finally confessed to the crime of theft.

An accusation for torture was later filed against the two policemen involved. However, due to threats received by the victim and his family, they refused to continue with the judicial proceedings. The judicial investigation has been closed.

CASE N° 13

NELSON DÍAZ MARCOS

On 12 May 2000, Nelson Díaz Marcos, partially inebriated, was detained near the entrance to the *Juan María Rejas* Education Centre in the town of Pachía, Tacna department, and was taken to the town's police station. Both his wife and his neighbour were witnesses to the arrest.

Nelson Díaz's wife later went to the police station to enquire as to the whereabouts of her husband. She was reportedly told by the same police officer who had detained him that he was "resting", and that "as he was drunk we have hit him a couple of times with a stick, but don't worry, within a few hours he will be released" (*"tu esposo está descansando, como está mareado le hemos metido un par de varazos, no te preocupes, dentro de un par de horas ya sale"*).

Later that day, a police officer visited Nelson Díaz's wife and informed her that her husband had died and his body could be found in the hospital. The hospital confirmed that Nelson Díaz had been admitted to the hospital by a member of the National Police.

According to the autopsy report, the body showed significant signs of having been tortured. "The neck showed signs of asphyxiation, and the bridge of the nose was black. The chest, arms and back were purple and there were longitudinal marks on the palms, and fingers, the knees were shredded and bloody, and the left cheekbone was bruised and had partially subsided" (*"en el cuello presentaba huellas de haber sufrido asfixia, el tabique nasal se encontraba de color negro. La zona del pecho, los brazos y la espalda estaban de color morado y presentaban marcas en forma longitudinal en las palmas y los dedos de las manos, en las rodillas presentaban la carne desgarrada y ensangrentada y el pómulo izquierdo se encontraba amoratado y hundido"*).

On 26 June 2000, the provincial attorney filed charges before a criminal judge in Tacna for the crime of torture. On 28 June 2000 the judge in charge of the case opened an investigation against the two policemen for torture. The two police officers asked for the case to be transferred to the military courts. On 30 October 2000 the Supreme Court of Justice ruled that the case should be dealt with by the civil courts. By the end of November 2000 the case had not yet been heard before the high court.

According to reports received by Amnesty International, on 12 June 2000, the director of the human rights organization in Tacna that had taken up the case Nelson Diaz received death threats and as a result decided to drop the defence of the case.

CASE N° 14

AMADOR CARMEN CANCHAPARÁN

In April 2000 Amador Carmen Canchaparán was reportedly arrested and taken to a Military Base in the El Valle district, Huánuco province, Huánuco department, along with eleven other people on suspicion of links with the armed opposition.

According to reports, on the first day of his detention, Amador Carmen Canchaparán suffered punches to the body and had his head submerged in a mixture of water and salt. The following day he had a gun placed inside his mouth and was threatened with death if he did not confess. On the third day Amador Carmen Canchaparán was forced to bite two peeled electricity cables, and threatened with connection to the electricity supply if he did not accept the charges laid against him. He was then forced to sign a document confessing to the crime and threatened with death if he should reveal to anyone that he had been tortured.

In May 2000 a complaint on torture was filed before the Public Ministry against members of the military base in Huánuco province who tortured him.

Amador Carmen Canchaparán is at present detained. The human rights organization which took up his case is as yet waiting for Amador Carmen Canchaparán to be allowed from prison into hospital to have a medical examination regarding the alleged torture.

CASE N° 15

RAÚL TEOBALDO MIGUEL ANDAHUA

On 18 December 1998, Raúl Teobaldo Miguel Andahua was walking down a street in Aguaytía, in the province of Ucayali, Loreto 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 Teobaldo 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 there was no evidence implicating him in terrorism-related offences.

Raúl Teobaldo Miguel Andahua filed a complaint before the Public Ministry. In May 1999, the judge in charge of the investigation decided that there was a case to answer and charged four navy officers with the crime of torture against Raúl Teobaldo Andahua.

Before the judicial investigation had been completed in the civil justice, a judge of the *Segundo Juzgado de Instrucción permanente de la Marina* (Second Permanent Navy Tribunal) asked for the case to be transferred to the military justice. On 16 January 2000, the *Corte Suprema de Justicia*, Supreme Court of Justice, ruled that the case should be tried in a civil court.

In September 2000, the prosecutor took the view that Raúl Andahua had been a victim of torture and that the officers concerned should be tried for the crime of torture under the February 1998 legislation which criminalizes torture. By the end of November 2000 the trial had not yet started.

CASE N° 16

LUIS OMAR CRUZ FANO

On 18 May 1998, Luis Omar Cruz Fano was detained on suspicion of extortion (*extorsión*) in Aucayacu, Huánuco department. According to reports, the victim alleges that at 10 a.m. two policemen took him to the second floor of the Aucayacu police station, where they tied his hands behind his back and then punched him in the stomach. The next day he was taken out of the cell by the same policemen, blindfolded, tied to a board, and then had his head submerged in a basin of water. In an attempt to get Luis Omar Cruz Fano to confess to the crimes that he was charged with, the policemen repeatedly hit him on the back of the neck and the kidneys.

According to reports, a medical examination carried out on Luis Omar Cruz Fano confirmed that he had been tortured.

On 20 August 1998, the examining attorney filed a complaint for “abuse of authority”, “*abuso de autoridad*”. A judicial investigation was initiated against the policemen. However, in November 1998, the judicial process was closed as both men were acquitted.

CASE N° 17

JUAN IPARRAGUIRRE LANDAURO

On 9 November 1998, Juan Iparraguirre Landauro was detained by two policemen on suspicion of having carried out a theft, in Bagua Grande, Amazonas department.

According to reports, the two policemen beat Juan Iparraguirre Landauro before taking him to the Bagua Grande police station, where they continued to hit him for approximately three hours. Juan Iparraguirre was reportedly forced to sign a document confessing to the charges made against him.

As a result of the torture, Juan Iparraguirre suffered a fracture on the right leg and the hips. These injuries were confirmed by a medical examination.

In January 1999, Juan Iparraguirre Landauro, for fear of reprisals, signed a document in the presence of an attorney to testify that the injuries described above were acquired, not as the result of torture, but due to an accident. Consequently, no charges could be filed against the policemen.

CASE N°18

ARMANDO ALEX BEDON HUAMANCÓNDOR

On 13 December 1998, Armando Alex Bedón Huamancóndor and a friend were stopped by two traffic policemen and driven to fields nearby known as La Yarada, Tacna department. According to reports, they were hit with a revolver and kicked until they lost consciousness.

Following the incident, the two policemen took both men to Unanue hospital in the town of Tacna. After they had received medical attention, Alex Bedón was forced back into the car, and left by the side of the road. On 18 December 1998, Alex Bedón filed charges for torture before the provincial attorney.

On 21 September 1999 the provincial attorney of Tacna decided that there was no case to answer because, according to his investigation, the blows on Alex Bedón's body had been inflicted not by the policemen who detained him, but by friends of the victim.

CASE N°19**WILMER SÁNCHEZ SILVA**

On 21 March 1998, Wilmer Sánchez Silva was detained by policemen from the *Dirección Nacional de Investigación Criminal* (DININCRI), the branch of the National Police for criminal investigation, in Bagua Grande, Amazonas department, on charges of homicide and drug trafficking. According to reports received by Amnesty International, Wilmer Sánchez suffered blows to the body at the hands of eight policemen, both before and after arriving at the DININCRI in Bagua Grande. The medical certificates revealed multiple bruises and grazes.

Wilmer Sánchez Silva filed charges for the crime of disobedience and abuse of authority (*desobediencia y abuso de autoridad*). However, he later retracted his accusations. In June 1998, the attorney decided not to prosecute for torture on the basis that the multiple bruises and grazes were acquired while he tried to escape his detention.

CASE N°20**Carlos Orellano Mallqui**

On 11 December 1998, Carlos Orellano Mallqui, a teacher, was detained on suspicion of theft and taken to a police station in the city of Huaraz, Ancash department.

According to reports, Carlos Orellano Mallqui's wife went to the police station to enquire the next morning as to his whereabouts because he had not returned home. She was sent from the police station to the hospital, where she found her husband on a bed in the emergency ward. He had a bullet wound to his head and was in a state of coma. She was informed by the hospital personnel that her husband had been brought into the hospital at 2.00 a.m. by two policemen and that he was begging them to cease hitting him. Carlos Orellano Mallqui died on 13 December.

The medical certificate confirmed that death had been caused by the impact of the bullet in the head and that Carlos Orellano's body had revealed lacerations in various parts.

On the 16 December 1998, the provincial prosecutor in charge of the case brought charges for the crime of "serious wounds causing death" (*lesiones graves seguidas de muerte*). The examining judge opened the investigation and ordered the arrest of a police officer.

The policeman's defence requested that the case be dealt with in the military courts. In April 1999 the *Corte Suprema de Justicia* (Supreme Court of Justice) granted jurisdiction of the case to the military courts. The police officer was absolved in June 2000.

CASE N° 21

ALEJANDRO DAMIÁN TRUJILLO LLONTOP

According to reports received by Amnesty International, Alejandro Damián Trujillo Llontop and another unnamed individual were detained in Lima, the capital, by police from the *División de Servicios Especiales*, Special Division, on 1 March 2000, and taken away in a military truck.

On 14 March, the father of the victim denounced his "disappearance" before the National Police Inspectorate of Peru (*Oficina de Inspectoría de la Policía Nacional del Perú*). Following internal investigations, the Special Division informed Alejandro Llontop's lawyer that no one had been arrested on 1 March 2000. In April a charge of forced disappearance was filed before the Public Ministry.

At the beginning of May 2000 the family of Alejandro Damián Trujillo Llontop was informed that on 2 March a body of a man of approximately 25 years of age had been found on the beaches of El Callao, Lima department. Following an examination, the corpse was identified as that of Alejandro Damián Llontop. The autopsy report revealed that the death had occurred on 1 March. The report also revealed that, prior to death, the body presented serious wounds which could have been caused by torture and ill-treatment.

Alejandro Damián Llontop's family filed a further complaint of crime against life, physical integrity, health and the murder of Alejandro Damián Llontop (*delito contra la vida, el cuerpo y la salud, asesinato en agravio*) before the Public Ministry. By the end of November 2000 Amnesty International had no knowledge of whether these investigations had yet concluded.

Amnesty International urges the Peruvian government to implement the following 12-Point Program for the prevention of Torture by Agents of the State**1. Condemn torture**

The highest authorities should demonstrate their total opposition to torture. They should condemn torture unreservedly whenever it occurs. They should make clear to all members of the police, military and other security forces that torture will never be tolerated.

2. Ensure access to prisoners

The governments should ensure that all prisoners are brought before an independent judicial authority without delay after being taken into custody. Prisoners should have access to relatives, lawyers and doctors without delay and regularly thereafter.

3. No secret detention

The government should ensure that prisoners are held only in officially recognized places of detention and that accurate information about their arrest and whereabouts is made available immediately to relatives, lawyers and the courts. Effective judicial remedies should be available at all times to enable relatives and lawyers to find out immediately where a prisoner is held and under what authority and to ensure the prisoner's safety.

4. Provide safeguards during detention and interrogation

All prisoners should be immediately informed of their rights. These include the right to lodge complaints about their treatment and to have a judge rule without delay on the lawfulness of their detention. Judges should investigate any evidence of torture and order release if the detention is unlawful. A lawyer should be present during interrogations. The government should ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups. The authorities responsible for detention should be separate from those in charge of interrogation. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

5. Prohibit torture in law

Governments should adopt laws for the prohibition and prevention of torture incorporating the main elements of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and other relevant international standards. All judicial and administrative corporal punishments should be abolished. The prohibition of torture and the essential safeguards for its prevention must not be suspended under any circumstances, including states of war or other public emergency.

6. Investigate

All complaints and reports of torture should be 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, witnesses and others at risk should be protected from intimidation and reprisals.

7. Prosecute

Those responsible for torture must be brought to justice. This principle should apply wherever alleged torturers happen to be, whatever their nationality or position, regardless of where the crime was committed and the nationality of the victims, and no matter how much time has elapsed since the commission of the crime. Governments must exercise universal jurisdiction over alleged torturers or extradite them, and cooperate with each other in such criminal proceedings. Trials must be fair. An order from a superior officer must never be accepted as a justification for torture.

8. No use of statements extracted under torture

The government should ensure that statements and other evidence obtained through torture may not be invoked in any proceedings, except against a person accused of torture.

9. Provide effective 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. Officials should be instructed that they have the right and duty to refuse to obey any order to torture.

10. Provide reparation

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

11. Ratify international treaties

All governments should ratify without reservations international treaties containing safeguards against torture, including the UN Convention against Torture with declarations providing for individual and inter-state complaints. Governments should comply with the recommendations of international bodies and experts on the prevention of torture.

12. Exercise international responsibility

Governments should use all available channels to intercede with the governments of countries where torture is reported. They should ensure that transfers of training and equipment for military, security or police use do not facilitate torture. Governments must not forcibly return a person to a country where he or she risks being tortured.