



WASHINGTON OFFICE ON LATIN AMERICA

Celebrating 30 years of promoting democracy, human rights and social justice in Latin America.

September 9, 2010

President of the Republic of Peru
Dr. Alan Garcia
Jr. de la Union s/n 1ra Cuadra
Lima, Peru

Dear President Garcia,

We are writing on behalf of the Washington Office on Latin America (WOLA) to express our profound dismay with Decree Law No. 1097, which applies time limits to judicial investigations, as well as statutes of limitation, to human rights violations committed during Peru's internal armed conflict. The decree, which was issued by the executive branch without any prior public debate, will effectively put an end to many ongoing human rights investigations and trials. While the rights of the defendants in any case must be respected, this decree law goes well beyond that and is a serious affront to the rights of the victims. We respectfully urge your government to immediately reverse Decree Law No. 1097.

Decree Law No. 1097 amounts to a declaration of state-sanctioned impunity. The conviction of former president Alberto Fujimori to 25 years in jail for aggravated homicide, assault and kidnapping – which the judges referred to as crimes against humanity – represents a milestone in the struggle against impunity in Peru and across the hemisphere. In contrast, the new decree law represents a major setback and could lead to the release of some individuals already convicted or on trial for human rights violations; of particular concern is the on-going trial of members of the Colina death squad implicated in the Barrios Altos and La Cantata massacres, among other grave crimes.

As a result of the decree, individuals cannot be investigated for crimes against humanity prior to 2003, when Peru signed the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, thereby claiming that statutes of limitations apply. Moreover, the decree law states that judicial investigations of human rights cases that surpass a stipulated period, depending on the charges, could be archived, despite the fact that Peru's own Constitutional Tribunal has ruled that such limitations cannot be applied to such cases. While these cases have been, in some cases, under investigation for some years, this is due to the complexity of the investigations, lack of sufficient resources, obstructionist tactics by the lawyers of the accused and the refusal of the Peruvian Ministry of Defense to provide information when requested.

Decree Law No. 1097 also introduces regulations that provide for the conditional liberty of those currently being prosecuted for grave human rights violations – including torture, forced disappearances and extrajudicial killings – thus opening an opportunity for those under

investigation to go into hiding or to flee the country. Military and police accused of human rights violations are now allowed to be placed under house arrest in any military or police installation, including recreational centers.

We are also deeply concerned that Decree Law No. 1097 directly contravenes international human rights treaties, as well as sentences of the Inter-American Court of Human Rights, including the decisions in the Barrios Altos and La Cantuta cases. The court's decision on the Barrios Altos case (March 2001) in particular states that statutes of limitation cannot be applied in cases involving grave human rights violations such as torture and extrajudicial or arbitrary executions. It is also contradicts the Peruvian Supreme Court decision in the Alberto Fujimori case and rulings of Peru's own Constitutional Tribunal.

We would also like to point out that the U.S. government has demonstrated its commitment to assisting the Peruvian government in identifying the remains of the victims of political violence in Peru by providing economic support to the *Equipo Peruano de Antropologia Forense*. The impact of this decree could in practice prevent the important forensic work underway in Peru from continuing.

We respectfully urge the Peruvian government to honor its international human rights commitments and its own constitution. Decree Law No. 1097 is a major step backwards in Peru's efforts to promote truth and justice. It is an affront to the victims of violence during the internal conflict and guarantees impunity for human rights violators. It should be reversed as soon as possible.

Sincerely yours,



Joy Olson
Executive Director



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Jo-Marie Burt
WOLA Advisor and Professor at
George Mason University

CC:

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Ministry of Justice and President of the National Council on Human Rights

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