

Peru/Chile

Serious human rights violations during the presidency of Alberto Fujimori (1990-2000)

“...It happened around 10pm during a fundraising party, which was to collect donations for improvements to the residence block. Then, at that time, a group of six uniformed people entered abruptly, two were leading and had their faces covered. They started saying things like ... miserable terrorists, you are going to get it now ... they insulted us and ordered us to lay on the ground. There is the case of Tomás Livias, one of those present, he resisted ... and they hit his back and chest with the butts of their rifles and threw him to the ground. One man stood up and said: I’m the one who organized this, do it to me. They shot him. They machined-gunned him and he fell. They went to the right, towards a room where ... there were two girls. They went and finished them off with shots, they returned to attack us when we were on the floor. Then the massacre started...”¹

This is how survivors of the *Barrios Altos* massacre recounted their testimony to the *Comisión de la Verdad y la Reparación* (CVR), Truth and Reconciliation Commission of Peru.² Between six and eight men with pistols and machine guns, their faces covered with balaclavas, entered the patio of the house where they were meeting and threatened approximately 20 people. Beating and insulting those present, they forced them face down on the floor and immediately, without discriminating, machine-gunned them, aiming for the backs and heads of the women, men and children. Subsequent forensic investigation and the testimony of the survivors confirmed that those still alive were given a *coup d’grace*.

The killing of 15 women, men and children in 1991 in the district of *Barrios Altos* in Lima is just one of the grave human rights violations committed by security forces between the years of

¹ CVR. Public Audience of Cases in Lima. Case 17. Third session, 22 June 2002. Testimony of Alfonso Rodas Alvitres, survivor of the massacre. See *Final Report* of the CVR, Volume 7 “*Los casos investigados por la CVR*”, page. 476.

² The CVR was created in 2001 with the mandate of establishing the circumstances surrounding the abuses and human rights violations committed between May 1980 and November 2000, by Shining Path, the MRTA and State of Peru. The CVR also had to determine the fate, identity and situation of the victims of the internal conflict and, as far as possible, responsibilities. In addition to analyzing conditions and the political, social and cultural context that contributed to the violence, the CVR had to present proposals to compensate victims and propose measures and reforms necessary to avoid the repetition of such acts in the future.

1990 and 2000, when Alberto Fujimori was President of the Republic of Peru.³ During the ten years of the Fujimori presidency, hundreds of cases of human rights violations such as killings, forced disappearances, torture and ill-treatment were documented.

These grave human rights violations were not isolated incidents. After a two year investigation the CVR considered that the forced disappearances, killings, acts of torture and ill-treatment carried out by members of the security forces during the presidency of Alberto Fujimori were systematic and generalized.⁴

The vast majority of those who survived these serious violations of fundamental rights during this dark period in Peru's history, and the relatives of those who lost their lives at the hands of security forces, continue to wait for truth, justice and compensation.



Amnesty International delegates meeting with relatives of the “disappeared”, in Lima, 1991. © A.I.

THE CHARGES AGAINST ALBERTO FUJIMORI

In November 2000, four months after Alberto Fujimori was sworn into office for his third term as president, amidst accusations of electoral fraud, Congress declared the office of the President vacant due to the “moral incapacity” of Fujimori to govern.⁵ The former president had already resigned during a visit to Japan. Weeks later it was revealed that Vladimiro Montesinos, who had been very close to the President in his role as “intelligence advisor”, had bribed opposition members in Congress. Montesinos had also been implicated in the sale of arms to armed opposition groups in Colombia.

Vladimiro Montesinos was detained in June 2001 in Venezuela and returned to Peru. He currently faces more than 60 judicial proceedings for charges related to human rights violations, corruption and money laundering. Other members of Fujimori's cabinet and various members of the armed forces are awaiting trial for similar charges. However, Alberto Fujimori himself, head of state throughout the entire decade, has yet to be brought to justice.⁶

Alberto Fujimori is facing 20 charges for corruption and human rights violations. Amongst these is the Attorney General's accusation of qualified homicide, grievous harm and forced disappearance, for the massacre at *Barrios Altos* and for the 1992 killings and forced

³ When Alberto Fujimori became president, Shining Path, the largest armed opposition group, had been committing atrocities since 1980 and Revolutionary Movement (MRTA) since 1984. The leaders and hundreds of members of these two armed opposition groups are serving sentences in Peruvian jails.

⁴ See *Final Report of the CVR*, Volume 6 “*Patterns in the committing of crimes and human rights violations*”, page 258.

⁵ Former President Alberto Fujimori was barred from public office by Congress until 2011.

⁶ During the ten year administration of Alberto Fujimori, it is estimated that more than 2 billion US dollars went missing from State coffers. A significant but small amount has been discovered and returned.

disappearance of nine students and a professor of the Enrique Guzmán y Valle University for Education in Lima, known as *La Cantuta*. These crimes have been attributed to the so-called “Colina Group”, a paramilitary group created in 1992 within the National Intelligence Service under the command of Vladimiro Montesinos. The group was created as part of a new counter insurgency strategy carried out by Alberto Fujimori.

On the basis of the accusation of the Attorney General a Supreme Court Judge issued a detention order against Alberto Fujimori in September 2001. The order asserted that there was convincing evidence indicating that the former president knew of the existence of the “Colina Group”.

THE ‘COLINA GROUP’, A ‘DEATH SQUAD’.

Fifty-seven individuals connected with the “Colina Group”, including Vladimiro Montesinos, are currently being tried for the crimes of illicit association in order to commit crimes, aggravated kidnapping, qualified homicide and forced disappearance. These charges related to the cases of *La Cantuta*, *Barrios Altos*, the 1992 kidnapping and killing of nine residents of El Santa, Ancash, and for the forced disappearance and killing of the journalist Pedro Yauri Bustamante, in Huacho, Lima, also in 1992.

In September 2005 three of those accused of belonging to the paramilitary “Colina Group”, acknowledged their participation in the crimes they were accused of and pleaded guilty. According to reports their testimonies confirmed the existence of the “Colina Group” and its links to the National Intelligence Service and the presidency of Alberto Fujimori.

In recent years it has been known that in 1991, a short time after the massacre of 15 women, men and children in *Barrios Altos*, Alberto Fujimori officially congratulated various members of the “Colina Group”. In addition, a decree was dictated that gave more powers to the National Intelligence Service, led by Vladimiro Montesinos.

The existence and operations of the “death squad” began to be known in 1993. In 1993 the then General Rodolfo Robles publicly acknowledged of the existence of a “death squad” which operated in the army’s intelligence service. Robles accused this “death squad” of being responsible for the *Barrios Altos* massacre, and for the killings and “disappearances” of the University of *La Cantuta*. He specifically accused the Chief of the Joint Command of the Armed Forces, Vladimiro Montesinos and Alberto Fujimori of having knowledge of how the “Colina Group” operated. General Robles, together with his family, fled Peru after receiving death threats in light of his declarations.

The CVR in its *Final Report* published in 2003, confirmed the existence of a “Colina Group” “death squad” linked to the National Intelligence Service under the command of Vladimiro Montesinos. It also indicated that there were reasonable grounds to assert that former president Alberto Fujimori, his advisor Vladimiro Montesinos and high ranking officers of the National Intelligence Service had criminal responsibility for the killing, forced disappearances and massacres carried out by the “Colina Group”.⁷

The CVR presented 43 cases of serious human rights violations and abuses to the Public Prosecutor’s Office. According to the CVR, all the necessary information had been documented

⁷ See *Final Report* of the CVR, “*General Conclusions of the Final Report*”, page 330.

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in order to bring those responsible to justice. Amongst these are cases of serious violations to fundamental rights allegedly committed by members of the security forces during the presidency of Alberto Fujimori, including the serious violations of fundamental rights attributed to the “Colina Group”.

Amongst the serious cases of violations to fundamental rights documented by the CVR during the presidency of Alberto Fujimori are: the 1990 torture and forced disappearance of 17 people detained at the military base of Los Laureles in Tingo María for alleged links with “terrorism”; the extrajudicial execution and forced disappearance of the more than 55 students of the National Central University between 1990 and 1992, in which the CVR also found the “Colina Group” responsible; the 1991 extrajudicial execution of the 15 adults and children by an army patrol in the rural community of Santa Bárbara, Huancavelica, they had been detained after being accused of “terrorism”; the 1992 torture and extrajudicial execution of the 32 people in the community of Apiza, Huánuco, by combined police and army forces; the 1992 extrajudicial execution of 42 inmates of the maximum security prison “Miguel Castro-Castro”, in Lima; the 1993 participation of soldiers in the killing of 72 residents, including 16 minors and other human rights violations including sexual abuse of women in the communities of Valle del Tsiriari, district of Mazamari, Junín; the extrajudicial executions of at least 14 people in Ayacucho between July and December 1991, according to the CVR a group of elite intelligence agents to be responsible for the crimes and that the group had acted with the acquiescence of superior officers, in some cases following their orders; and, dozens of extrajudicial executions during counterinsurgency operations on the left flank of the Huallaga river in Huánuco between 1990 and 1994.

IMPUNITY DURING THE YEARS OF ALBERTO FUJIMORI

During the ten year presidency of Alberto Fujimori investigations into thousands of cases of human rights violations were deliberately impeded, covering up those responsible and preventing their punishment. These crimes were rarely subject to any investigation and only in exceptional cases were those responsible brought to justice. As a consequence, laws were created to the guarantee impunity and a policy of human rights violations was protected.

Relatives and survivors of the *Barrios Altos* massacre, like the victims of *La Cantuta* and thousands of other victims who suffered violations to their fundamental rights or who lost their loved ones have called for justice for many years.



Exhumation of human remains from a clandestine common grave, at the site of the *La Cantuta* massacre, Cienaguilla, Lima, 1993. © AI

National and international pressure led to the 1994 conviction by the Supreme Council of Military Justice of nine officers, including members of the “Colina Group” accused of

the *La Cantuta* killings and forced disappearances. They were condemned to prison sentences of up to 20 years for the murder of a teacher and nine students. The decision of the Supreme Court

to process the nine army officers accused in the military justice system and not the civilian courts was considered to have been dictated by the executive branch and the army. The executive branch showed its will, once again, to protect the perpetrators of the serious human rights violations.

These sentences, however, were a small positive step in the search for justice of these ten families. Not only were another ten high ranking officers, accused by dissident members of the army and human rights defenders to be involved, not investigated, but the nine convicted officers were granted an amnesty in the same year. The right of the relatives of victims of *La Cantuta* to see those responsible for the deaths of their loved ones pay for their crimes, was quashed.



Relatives of the “disappeared” during the exhumation of human remains from a clandestine common grave, at the site of the *La Cantuta* massacre, Cienaguilla, Lima, 1993. © AI

In 1995 the government of Alberto Fujimori made sure that relatives and victims of serious human rights violations attributed to members of the security forces could not obtain either justice or truth.

Impunity, which had been an institutional practice, was legalized in 1995. On 14 June 1995 Congress passed an amnesty law for all members of the security forces and civilians who had been denounced, investigated, accused, judged or convicted for human rights violations between May 1980 and 15 June 1995. The law also applied to those already serving prison sentences.

Raida Córdor, mother of one of the University of *La Cantuta* students killed in 1992, when hearing about the amnesty laws, articulated her fears with striking words.

The news of the amnesty law for the killers of my son made me feel that all the progress we had achieved came crashing down on my head ... they took the son I most loved, my first-born ... they took him at midnight and they hid him without pity. I had to look for him under the earth to find him ... the nights were eternal. I imagined that he returned home and that he had gone to bed quietly so as not to wake me ... when I was convinced he was dead, I lost all fear ... when the case became public and the press identified the killers I became much stronger. With other relatives [of others killed] we came together and continued our efforts, knocking on doors of anybody who would listen. How could this government have pardoned them in my name? ... last Friday two men turned up at my house. I wasn't there but the girls said they were two young men, short hair, they looked like plain clothes policemen. It seemed that it was all starting over again ...

The government acted resolutely to preserve and enforce the amnesty law. The day the law came into force the judge investigating the *Barrios Altos* massacre resolved that the law did not apply to the events being investigated.

The relatives of the 15 people killed in *Barrios Altos* had been fighting for justice for four years. In spite of the decision of the judge, on 28 June 1995, Congress passed a law which reinforced the amnesty law. This second law prohibited the judiciary from pronouncing itself on the legality or applicability of the amnesty law. In this way Congress annulled the resolution of the judge.

These two amnesty laws made it very unlikely that thousands of victims of serious human rights violations and their families would know the truth about what happened to their loved ones during the presidency of Alberto Fujimori.

In October 2000, a month before Alberto Fujimori abandoned the presidency, his government once again sought to guarantee impunity for all those who had been implicated in human rights violations. It proposed that the amnesty laws be widened to include people accused of corruption and drug trafficking during the ten years Alberto Fujimori was president.

THE DETERIORATION OF THE RULE OF LAW DURING THE ALBERTO FUJIMORI YEARS AND THE CONSTANT THREATS AGAINST HUMAN RIGHTS DEFENDERS.

During the presidency of Alberto Fujimori the protection of human rights deteriorated in Peru. Members of the security forces were permitted to carry out forced disappearances, killings and torture with impunity. In addition, the collapse of the rule of law began on the 5 April 1992 with a coup d'état.

In April 1992, President Fujimori announced the suspension of Congress, the suspension of constitutional order and the establishment of an emergency government. The president ruled the country by decree until December 1992. One of the objectives of the new Emergency Government of National Reconstruction, was the reform of the judicial system and associated institutions, the Tribunal of Constitutional Guarantees, the National Council of Magistrates, and the Public Prosecutor's Office.

The suspension of the constitutional government meant an immediate risk for the protection of human rights in Peru. The dissolution of Congress officially put an end to the work of the congressional commissions, including the commissions with responsibility for human rights. Those affected were the Justice and Human Rights Commissions of both the upper and lower house and Special Investigation Committees in charge of investigating specific cases of serious human rights violations. Some of the Special Investigation Committees had been collecting evidence and were going to publish their findings when Congress was dissolved. The evidence, data and documents which these committees had accumulated was subsequently withdrawn by the emergency government. When Congress was reopened in December 1992 it was informed that files that contained all the documentation of the cases under investigation had disappeared.

In April 1992 the Government dismissed all the judges of the Tribunal of Constitutional Guarantees, National Council of Judges, District Council of Judges and 13 Supreme Court judges. Via other decrees the Attorney General and more than 120 prosecutors and judges of the judicial districts of Lima and Callao were removed from their post. The independence of the judicial branch and the Public Prosecutor's Office was severely undermined when the Emergency Government for National Reconstruction designated nine new judges for the Supreme Court and other tribunals, and a new Attorney General to head the Public Prosecutor's Office. Towards the end of Fujimori's second term in office over 80 per cent of judges in Peru were "provisional"

which meant they were not guaranteed stability and could be removed without cause, severely limiting their independence and autonomy.

During this period, intimidation and death threats against human rights defenders were common. Human rights defenders, victims and relatives of victims who presented complaints over the abuses of the security forces lived a climate of fear. Human rights defenders, accused by President Fujimori and other authorities of complicity with armed opposition groups, felt intensely the climate of fear.

The climate of fear, generated by official hostility towards human rights defenders, became worse with the 1995 amnesty laws. Human rights defenders who publicly denounced the amnesty laws were subject to a torrent of death threats. For example, Dr. Antonia Saquicuray, the instructing judge investigating the 1991 massacre at *Barrios Altos*, received various death threats after declaring that the amnesty law was unconstitutional and that it violated international human rights standards.

These are some of the cases that illustrate the general pattern during the Fujimori years, of the threats and intimidation against human rights defenders, victims and relatives who presented complaints against the abuses of the security forces.

THE DETENTION OF ALBERTO FUJIMORI IN CHILE

Alberto Fujimori was detained in Chile on 7 November 2005 at the request of the Peruvian authorities who will present in the coming weeks an extradition request to Chile. The former president is being detained at the Police Academy in Santiago, the capital. He is being held by order of Orlando Álvarez, Minister of the Supreme Court of Chile, who ordered his provisional detention for illicit association in order to commit crimes, embezzlement of public funds and deliberate misleading [*falsedad ideológica*], in addition to aggravated homicide [*homicidio calificado*], grievous bodily harm and forced disappearance in relation to the *Barrios Altos* massacre and the killings and “disappearances” of *La Cantuta*.

The former president had travelled to Chile from Japan, apparently with the aim of preparing his eventual return to Peru. Alberto Fujimori had been in self-imposed exile in Japan since November 2000 when he abandoned his presidency. The State of Peru had requested his extradition from Japan in 2002 for the charges levied in relation to the massacres of *La Cantuta* and *Barrios Altos*, and for corruption.

According to the 1932 Chile – Peru extradition treaty, the State of Peru has 60 days for formally petition the Chilean authorities for the extradition. The decision to authorise the extradition rests with the Supreme Court of Chile.

On 9 November 2005 the Supreme Court of Chile denied bail to the former president. Alberto Fujimori is being represented by a Peruvian lawyer who arrived in Santiago after his detention, and another lawyer in Chile who will represent him before the Supreme Court.

INTERNATIONAL OBLIGATIONS TO INVESTIGATE, PROCESS AND PUNISH CRIMES AGAINST HUMANITY.

The generalized and systematic nature of the human rights violations during the 1990 – 2000 Fujimori presidency constitutes a crime against humanity, that is, a grievance against all humanity.

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International law recognises, amongst other crimes, the general or systematic practice of homicide, torture, arbitrary imprisonment and forced disappearance as crimes against humanity. All States, including Chile and Peru, have the obligation to investigate and, if required, to process and punish those responsible for committing or ordering crimes against humanity. States also have to collaborate with their apprehension, detention, extradition and punishment.

If for any reason Chile denies the extradition request it is obligated to put Alberto Fujimori at the disposal of its own judicial authorities for prosecution. If the investigation demonstrates that sufficient and admissible evidence exists, Alberto Fujimori should be the subject of a judicial process in Chile, independent of his nationality and location of the crimes of which he is accused. Likewise, it should be noted that many of the human rights violations committed during his presidency constitute torture or other cruel, inhuman or degrading treatment. According to the articles 7 and 8 of the Convention against Torture, if Chile denied the extradition request it has the obligation, under international law, to “*submit the case to its competent authorities for the purpose of prosecution.*”⁸

As such, Amnesty International requests Chilean authorities to comply with and respect Chile’s obligation under internal law, obligations to which it has freely submitted. In addition, Amnesty International trusts that the Chilean authorities will demonstrate to the international community their commitment to protect and promote human rights, by contributing to the efforts to see Alberto Fujimori – who is subject to serious accusations – face judicial proceedings.

⁸ Chile ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988.

☞ **What can you do?**

- Help share information about the serious human rights violations committed during the years Alberto Fujimori was president of Peru. Distribute this report as widely as possible amongst friends, contacts, etc.
- Go to our website :
<http://www.amnesty.org.uk/action/fujimori.shtml>
and sign the petition. Thank you.