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**PERU:**  
**AMERICAS WATCH DEPLORES VIOLATIONS IN**  
**ANTI-TERRORISM TRIALS**  
**NEW ATROCITIES BY SHINING PATH**

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Americas Watch today deplored fundamental due process violations in the trial by a military tribunal in Lima of leaders of the insurgent group Shining Path. Shining Path leader Abimael Guzmán and ten others were convicted of treason and sentenced to life imprisonment last week. A military appeals court has upheld Guzmán and two associates' sentences, allowing them eight hours to present an appeal to the highest body of military justice.

At the same time, the New York-based human rights group vehemently condemned recent violations of the laws of war by the Shining Path, including the assassinations of an Italian lay missionary, a soup kitchen organizer, several local elected authorities in rural areas, the bombing of a church-run human rights office, and the massacre of forty-four peasants in a rural village.

Americas Watch urges the government of President Alberto Fujimori to prosecute all those accused of terrorist offenses before independent and impartial tribunals, with guarantees of fundamental rights of due process. Those already convicted under the government's new procedures should have their sentences vacated and should receive new trials by regularly constituted courts. A necessary first step to ensure fair trials is the restoration of the independence of the judiciary, which was destroyed following President Fujimori's self-inflicted coup of April 5, 1992.

Americas Watch calls on the leadership of Shining Path to immediately abandon all practices which violate the laws of war, particularly the targeting of civilians for violent attacks.

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## The Guzmán Trial

In an October 7, 1992 letter to President Fujimori, Americas Watch congratulated the government for its capture of Guzmán, the Shining Path leader, who we believe should be prosecuted for thousands of murders of civilians carried out by his armed organization. However, we objected to the use of a military tribunal, recently mandated for many terrorist offenses, for his trial and for that of his accomplices, on the following grounds:

\* the trial of civilians by military tribunals violates the Peruvian Constitution as well as Peru's international obligations to guarantee every defendant the right to trial by an independent and impartial tribunal. Indeed, the excessively speedy proceedings in which the accused had little opportunity to present a defense or to contradict evidence presented by the prosecution, plus the extremely short time allowed for appeals all contributed to make the trial of Abimael Guzmán and his codefendants a mockery of justice.

\* Guzmán's right to a fair trial was further abridged by numerous statements by President Fujimori prejudging the outcome; the day before the military court's ruling in his case, the President announced he would be convicted and spend his life in prison. The day after he was convicted, the president expressed certainty that his appeals would fail.

Several decrees promulgated since April 5 regarding trials for crimes of terrorism and treason violate basic rights in several other ways:

\* Decree 25475, the anti-terrorism legislation promulgated on May 5, leaves Peru's citizens virtually unprotected against abuse of power. Employing a vague definition of terrorism, this law criminalizes such acts as "provoking anxiety" or "affecting international relations" by any means, including non-violent ones. Under this clause journalists or human rights monitors could be charged because of critical articles or reports, and face prison terms of not less than 20 years.

\* The fundamental rights of *habeas corpus* and *amparo* have been eliminated for defendants in these trials, in violation of international instruments signed and ratified by the state of Peru, among them the American Convention on Human Rights.

\* Sacrificing accountability for expediency, terrorism trials are now conducted by "faceless"—or hooded—judges and prosecutors in secret proceedings. The use of hooded judges violates the right to an impartial tribunal, as it is impossible to verify the neutrality of someone who remains anonymous. Although these measures were ostensibly adopted to protect judges and

prosecutors in terrorism cases, the effect may be to endanger all magistrates, as Shining Path has threatened to retaliate indiscriminately against them all.

\* Decree Law 25659 which provided for military trials for certain terrorist offenses mandates life sentences for those found guilty of crimes as disproportionate as detonating a car bomb and inadvertently possessing ammonium nitrate, a commonly used fertilizer which the Shining Path has mixed with gasoline in its deadly car-bombs. The possession of ammonium nitrate was only recently criminalized.

#### **Recent Violations of the Laws of War by Shining Path**

Americas Watch condemns the blatant violations of Common Article 3 of the Geneva Conventions, which applies to all parties to any internal armed conflict, which the Shining Path has committed in recent weeks. These violations demonstrate a fundamental disregard for human life. Among the atrocities attributable to the Shining Path in recent weeks are the following:

\* the October 1 assassination of Italian lay missionary Giuglio Rocca Oriana in the community of Jangas in Ancash department;

\* the complete destruction by explosives of the office of the Vicariate of Solidarity in Ayaviri, department of Puno, on October 7. The Vicariate of Solidarity carries out human rights and peace activities under the auspices of the Catholic Church.

\* the massacre of forty-four villagers in the Andean hamlet of Huayao, in the department of Ayacucho on the night of October 10. According to news reports, the dead included 18 women and 12 children. The insurgents are also reported to have burned and looted houses. Huayao was targeted because the village men had formed civil defense patrols. While armed militiamen may be considered legitimate targets under the laws of war when they are on duty, attacks on those placed *hors de combat* by their surrender or injury are strictly prohibited. Moreover, the slaying of defenseless women and children, and the burning and looting of homes, are clear and flagrant breaches of the laws of war.

\* On October 7, presumed Senderistas assassinated Bernardina Maldonado Quispe, coordinator of the Glass of Milk soup kitchen program in the Lima shantytown of El Agostino.

\* On October 8, a Shining Path column entered the village of Palca in Puno and killed five municipal authorities, including the mayor, Esteban Vilca Mamani, the secretary of the mayor's council, Felipe Santiago Mamani Potosimo, the governor, Reynaldo Valentín Mamani, council member Aureliano Ccama Cutipa, and

teacher Simón Miguel Vilca Mamani. Another teacher, Félix Carrión Coyla, was seriously injured. Municipal authorities, whether elected or appointed, are civilians and therefore, an attack against them violates fundamental standards of the internationally recognized laws of war.

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Americas Watch, a division of Human Rights Watch, was established in 1981 to monitor and promote the observance of internationally recognized human rights. Americas Watch is one of the five regional divisions of Human Rights Watch. The Chair of Americas Watch is Peter D. Bell; Vice Chairs, Stephen L. Kass and Marina Pinto Kaufman; Executive Director, Juan E. Méndez; Associate Directors, Cynthia Arnson and Anne Manuel.