

[TRANSLATION: Original, Spanish]

SUPREME DECREE

No. 065-2001-PCM

THE PRESIDENT OF THE REPUBLIC

IN VIEW OF:

The proposal for the creation of the Truth Commission presented by the Inter-institutional Working Group created by Supreme Resolution No. 314-2000-JUS;

CONSIDERING:

That the First Article of the Constitution establishes that the defense of the individual and respect for the person's dignity constitute the highest objective of society and the State;

that, it is the duty of society and the State to guarantee that human rights are fully upheld, as an expression of the supremacy of the individual, end and object of all democratic systems;

that, it is the duty of the State to promote and guarantee the peaceful coexistence among all members of society;

that, in May 1980 terrorist organizations unleashed violence against humanity and thousands of Peruvians ended up as victims of the violation of their most elemental rights both as the work of said terrorist organizations and that of some agents of the State, with a tragic outcome of crimes, disappeared persons and other serious incidents that were not clarified¹;

that, the painful process of violence experienced by the country in the last two decades should be fully clarified, it should not remain forgotten and that the State should guarantee the right of society to the truth;

that, a democratic State and society should confront the past with firmness and without an animus of vengeance, clarifying all the events at odds with democratic freedoms and postulates;

that, a Truth Commission is the ideal means both for clarifying the incidents of terrorist violence and serious violations of human rights that occurred during that period and for ensuring that these do not recur, creating the necessary conditions for national reconciliation founded on justice;

in accordance with the provisions of paragraph 24) of Article 118 of the Political Constitution of the State;

With the approving vote of the Cabinet;

DECREES:

Article 1. The Truth Commission is created, charged with clarifying the process, facts and responsibilities of the terrorist violence and the violation of human rights produced

¹ This is the most literal translation of "esclarecer," which means to investigate and bring to light; "clarify" will be used throughout in this sense.

from May 1980 to November 2000, whether imputable to terrorist organizations or to State agents, as well as proposing initiatives destined to affirm peace and harmony among Peruvians.

The Truth Commission will tend toward national reconciliation, the rule of justice and the strengthening of the democratic constitutional regime.

Article 2. The Commission will have the following objectives:

a) To analyze the political, social and cultural conditions, as well as the behaviors, of society and State institutions, that contributed to the tragic situation of violence through which Peru has passed;

b) To contribute, when appropriate, to the justice system's clarification of the crimes and violations of human rights committed by terrorist organizations or some State agents, seeking to determine the whereabouts and situation of the victims and identifying, to the extent possible, presumptive responsibilities;

c) To draw up proposals for reparation and dignification of the victims and their family members;

d) To recommend institutional, legal, educational and other reforms, as preventive guarantees, so that these may be processed and attended to through legislative, political or administrative initiatives; and

e) To establish mechanisms for following up on its recommendations.

Article 3. The Truth Commission shall focus its work on the following acts, as long as they are imputable to terrorist organizations, State agents or paramilitary groups:

a) Murders and abductions;

b) Forced disappearances;

c) Torture and other serious injuries;

d) Violations of the collective rights of the country's Andean and native communities;

e) Other crimes and serious violations of the rights of individuals.

The Commission has no jurisdictional powers, therefore it does not substitute the functions of the Judicial Power and Public Ministry.

Article 4. The Truth Commission shall be composed of seven persons of Peruvian nationality, of recognized ethical trajectory, prestige and legitimacy in the society and identified with the defense of democracy and the institutional nature of the Constitution.

The President of the Republic, with the approving vote of the Council of Ministers, shall designate the members of the Commission by Supreme Resolution.

Article 5. Given the exceptional nature of its functions, the members of the Truth Commission shall have appropriate security measures as the Executive Power may dispose.

The Executive Power, members of the Armed forces and National Police or any other institution, functionary or servant, within the ambit of the Executive Power, shall lend their support and collaboration to the Commission for the fulfillment of its functions.

The Executive Power, in support of the Truth commission, will carry out the necessary coordination with other State powers in order to promote their cooperation.

Without prejudice to the foregoing, the Truth commission shall be able to propose and subscribe, through the Executive Power, special cooperation agreements with the Legislative Power, the Judicial Power, the Public Ministry and any other constitutionally autonomous institution.

Article 6. The Truth Commission shall enjoy the following authority for fulfilling its function:

a) To interview and compile from any person, authority, functionary or public servant all the information it considers pertinent.

b) To request the cooperation of functionaries and public servants in order to access documentation or any other State information.

c) To carry out visits, inspections or any other investigative step it considers pertinent. To that end, the Commission shall be able to count on the support of experts to further its work.

d) To carry out public hearings and, as it considers appropriate, carry out investigative steps in a confidential manner, with the capacity to maintain the confidentiality of identity of those who provide important information to it or participate in the investigations.

e) To take steps to obtain security measures for persons who, in the judgment of the commission, are in a situation that threatens their life or personal integrity.

f) The Truth Commission shall establish channels of communication and mechanisms for the participation of the population, especially that which was affected by the violence.

g) To approve its internal organizational and operating regulations for fulfilling its objectives and authority.

Article 7. The Truth Commission shall begin its operations from the time of its installation and shall be in existence for a period of eighteen months. This period may be extended for an additional five months.

The Final Report of the Truth commission shall be presented to the President of the Republic and to the heads of the other powers of the State. It shall be published and made known to the citizenry.

The testimonies and documents that it receives shall be confidential [“reserved”]. At the end of its operation, the bank of documents gathered by the Commission throughout its term shall be turned over, under inventory, to the Ombudsman’s Office, under strict reserve as to its contents. The Executive Power shall attend to the recommendations of the Commission to the extent they are compatible with the law.

Article 8. The present Supreme Decree shall be submitted for approval by the President of the Cabinet, the Minister of Defense, the Minister of the Interior and the Minister of Justice.

FINAL PROVISIONS

First. The Truth Commission shall establish an Executive Secretariat as a support body for the fulfillment of its functions. It shall be able to contract the services of

professionals from the various scientific branches necessary for the correct performance of its mandate, including lawyers, sociologists, psychologists, experts in medicine and forensic anthropology, among others. The organization and operation of the Executive Secretariat shall be established in its regulation.

Second. The Truth Commission's resources are:

- a) Those that may be transferred for such effect by the Ministry of the Economy and Finance.
- b) Those that may be assigned in the General Budget of the Republic for the next fiscal period.
- c) Those that may be obtained directly from international cooperation.
- d) Others that may come from donations.

Third. The members of the Truth Commission shall be designated within 30 days counting from the entry into force of the present Supreme Decree. Once the Commission is installed, it shall have a period of 90 days to organize its work and draft the pertinent regulatory documents.

Done at Government House, in Lima, on the second day of the month of June of the year two thousand and one.

VALENTIN PANIAGUA CORAZAO
Constitutional President of the Republic

JAVIER PEREZ DE CUELLAR
President of the Council of Ministers

ANTONIO KETIN VIDAL HERRERA
Minister of the Interior

WALTER LEDESMA REBAZA
Minister of Defense

DIEGO GARCIA SAYAN LARRABURE
Minister of Justice