Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Events of 2009

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Intensifying Attacks on Human Rights Defenders, Organizations, and Institutions

Health Providers Complicity in Torture and Cruel, Inhuman or Degrading Treatment

In Search of Authoritative Local Voices

Peru made history in 2009 by convicting a former elected president for grave human rights violations. Yet efforts to prosecute others responsible for abuses committed during Peru's internal armed conflict (1980-2000) have had mixed results and most perpetrators continue to evade justice. Investigations of massacres and enforced disappearances by government forces have been obstructed by lack of cooperation from the military.

Torture and ill-treatment of criminal suspects are chronic problems. Police sometimes overstep international norms on the use of lethal force in controlling protests and demonstrations.

According to Peru's Truth and Reconciliation Commission, almost 70,000 people died or "disappeared" during the country's internal armed conflict. Many were victims of atrocities committed by the Shining Path and the Tpac Amaru Revolutionary Movement (MRTA), and others of human rights violations by state agents.

On April 7, 2009, in a unanimous verdict, a three-judge panel of the Peruvian Supreme Court convicted and sentenced former president Alberto Fujimori to 25 years' imprisonment for crimes against humanity. He was the first democratically elected Latin American leader to be convicted for grave human rights violations in his own country. The court found him responsible for the extrajudicial execution of 15 people in the Barrios Altos district of Lima in November 1991, the enforced disappearance and murder of nine students and a teacher from La Cantuta University in July 1992, and two abductions. Fujimori's lawyers appealed the sentence and a final verdict is still pending at this writing. The trial was respectful of due process guarantees and consistent with international standards of fair trial. By October 2009 Fujimori had been convicted and sentenced in each of the other cases for which he was extradited from Chile in 2007, involving charges of corruption, bribery, and phone-tapping.

In a separate trial, in April 2008 Gen. Julio Salazar Monroe, former head of the National Intelligence Service during the Fujimori government, was sentenced to 35 years in prison for ordering the Cantuta killings. By the end of September 2009, 13 members of the Colina group, the government death squad directly responsible for the La Cantuta and Barrios Altos killings, had been convicted.

Efforts to investigate and prosecute former officials and military officers implicated in scores of other killings and "disappearances" dating from the beginning of the armed conflict have had meager results. Lack of cooperation by the military has consistently hampered the investigation of human rights cases. Moreover, President Alan Garca's government has repeatedly questioned the legitimacy of human rights trials. In 2009 top government and military officials suggested that efforts by Peru's human rights organizations to combat impunity undermined military morale. The defense minister, Rafael Rey, claimed at a War Marines ceremony in October that the military and police did not commit crimes against humanity because they did not kill for religious, racial, political, or ideological reasons.

According to information published by the human rights Ombudsman in December 2008, of 218 cases monitored by the institution-

which include abuses committed by insurgent groups-only eight had led to convictions, while 122 were still under investigation by prosecutors several years since the investigations were opened. In October 2009 the National Human Rights Coordinator, an NGO that monitors accountability, reported that the National Criminal Court, created in 2004 to deal with human rights violations and terrorism, had acquitted 52 military and police agents and convicted 12. The ratio of acquittals to convictions increased significantly in 2008-09: the court acquitted 29 agents and convicted only two. In September 2009 the Supreme Court overturned one of the two convictions.

In this case, the court annulled the 20-year prison sentence of a naval officer for the murder of Indalecio Pomatanta, a 17-year-old who was captured in 1995 by a military patrol, tortured, and burned alive. The court based its decision on inconsistencies between the accused officer's testimony and his earlier statements to a military tribunal, which in 2004 the Supreme Court had ruled not competent to hear the case. In October the National Criminal Court acquitted five former top-ranking army officers responsible for counterinsurgency operations in the Huallaga region of enforced disappearances in 1990, discounting evidence that "disappearance" was a systematic practice at the time.

During the current decade there have been several violent clashes between protesters and police, with deaths on both sides. The circumstances of these incidents are usually disputed. Prosecutorial investigations rarely clarify the circumstances of incidents in which police were accused of unlawfully using lethal force.

In June 2009, 33 people were killed (23 police and 10 civilians) in violent clashes between police and indigenous protesters in the provinces of Utcubamba and Bagua in the Peruvian Amazon. Eighty-two were treated in hospital for gunshot wounds, according to a report by the Ombudsman's Office. The police were clearing a stretch of road blocked by indigenous groups who were demanding that the government abandon a series of legislative decrees intended to facilitate economic activities in the Amazon region. Three indigenous witnesses who participated in the protest and were interviewed by a journalist in hospital where they were recovering from gunshot wounds said that the police fired live ammunition directly at them. Other witnesses claimed that several police were shot by demonstrators who had seized police weapons. Indigenous demonstrators also killed 10 policemen taken captive while guarding an oil pipeline.

According to the Ombudsman's Office, 84 civilians were later facing court proceedings for the violence, 18 of whom were in detention. The Attorney General's Office also opened an investigation into possible police responsibility for unlawful killings. In August a prosecutor started proceedings against 16 police officers alleged responsible for deaths and injuries. However, the attorney general accused the prosecutor of acting without a mandate by opening the case after being notified that she had been replaced. The case was dropped, and another prosecutor is still collecting evidence at this writing.

Torture and ill-treatment of criminal suspects continue to be problems in Peru. A poor record of prosecuting state agents for abuses hinders eradication of these practices. The Ombudsman received 503 complaints of torture and ill-treatment between January 2003 and October 2008.

The crime of torture was incorporated into the criminal code in 1998, but some judicial authorities have failed to grasp the seriousness of the crime. In 2008 a Supreme Court panel annulled a conviction for torture on the erroneous grounds that torture-which comes under the heading of crimes against humanity in the criminal code-exists only at times of political conflict. The court ordered a new trial, and in August 2009 a new panel found the perpetrator guilty only of causing injury and reduced the penalty to a suspended prison sentence of four years. In another case, a prosecutor used the same argument to drop charges of torture against a military officer accused of beating a recruit in 2001. He declared the lesser charge of causing injury to be subject to a statute of limitations, depriving the victim of any redress.

Journalists in Peru's provinces are vulnerable to intimidation and threats. Individuals acting in support of, or working for, municipal authorities have assaulted, and even murdered, journalists who publicize abuses by local government officials.

In June 2009 the government revoked the broadcasting license of a local radio station in the Peruvian Amazon, La Voz de Bagua, after the minister of the interior and members of the president's American Revolutionary People's Alliance (APRA) party accused it of "inciting violence" during its coverage of the civil unrest in Bagua. Although the broadcasting authorities claimed the station was operating illegally, the timing and circumstances of the revocation suggested that it was an act of censorship or punishment in response to coverage of the anti-government protests.

Former president Fujimori's supporters in Congress, as well as some top government officials, have aggressively sought to discredit NGOs that advocate for human rights accountability. Such NGOs have been falsely accused of sympathy with terrorist groups or of undermining the armed forces.

Rights advocates face anonymous threats. In September 2009 Salomn Lerner, former president of the National Truth and Reconciliation Commission, reported that the dogs at his property had died from poisoning. Two weeks later he received anonymous phone calls both at his house and at the Institute for Democracy and Human Rights at the Catholic University of Peru, of which he is president. The caller left a message warning, "What we did to your dogs we will do to you."

Peru's restrictive abortion laws and policies, which criminalize abortion generally and provide only vague guidance on when an abortion may be procured lawfully, contribute to maternal death and disability. Approximately 16 percent of maternal deaths in Peru are attributable to unsafe abortions. In October 2009 a special congressional committee set up to review the country's penal code proposed decriminalizing abortion in cases of rape, incest, and fetal abnormalities.

In June 2009 the United Nations special rapporteur on indigenous people, James Anaya, visited Peru on a mission to investigate the events in the Peruvian Amazon. In August, in its final observations on Peru's report to the UN Committee on the Elimination of Racial Discrimination, the committee urged Peru to implement Anaya's recommendation that an independent commission with indigenous representation be formed to impartially investigate the events.

Human Rights Watch defends the rights of people in 90 countries worldwide, spotlighting abuses and bringing perpetrators to justice

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