

# Human Rights Watch

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

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Efforts to prosecute those responsible for gross human rights violations dating from Peru's armed conflict (1980-2000) have begun to show results, but they still face formidable obstacles. These include a chronic shortage of funds and resources, a lack of trained investigators, and a lack of cooperation by the armed forces.

Military courts continue to investigate human rights violations committed by military personnel during this period, even though the Constitutional Court and the Supreme Court have ruled that they lack competence to do so. Torture is an ongoing problem. Journalists face violence and harassment, particularly in provincial cities. Human rights defenders are vulnerable to threats and intimidation.

#### *Confronting the Past*

At the end of November 2005, former president Alberto Fujimori was in detention in Santiago, Chile, awaiting possible extradition to Peru on charges of corruption and human rights abuse. Arriving unexpectedly in the Chilean capital by private jet from Japan on November 6, Fujimori cleared immigration without difficulty despite an Interpol alert for his arrest. Chilean police detained him early the following morning acting on a warrant issued by the Peruvian Supreme Court. Apart from numerous accusations of corruption, Fujimori faces charges for killings and disappearances in the early 1990s. Before leaving Japan, where he had been in self-exile since 2000, Fujimori had announced his intention to stand as a candidate in Peru's April 2006 presidential elections.

The number of military and police personnel facing trial for human rights abuses committed during Peru's counterinsurgency campaign rose significantly in 2005. As of October 2005, 383 former and still serving officers had been charged in twenty-two cases, most of them having been forwarded to the attorney general by the Truth and Reconciliation Commission in August 2003.

In August 2005, the trial began in open court of more than fifty members of the Colina Group, a clandestine army death squad active during the government of Alberto Fujimori (1990-2000). They are accused of numerous killings and forced disappearances, including shooting dead fifteen unarmed civilians at a fundraising barbecue in the Barrios Altos district of Lima on November 3, 1991, and kidnapping and murdering nine students and a teacher from the La Cantuta university on July 18, 1992.

Testimony showing that the squad acted under government orders is expected from three former members who confessed in court to the charges. Two of them were sentenced at the beginning of the trial.

There has also been progress in cases dating from the presidencies of Fernando Belandé (1980-1985) and Alan García (1985-1990). The special human rights prosecutor in Ayacucho, Cristina Olazabal, has filed charges in at least twelve cases. In July 2005, Judge Miluska Cano of the Fourth Supra-Provincial Criminal Court in Lima indicted 118 soldiers for first-degree murder, extrajudicial execution, and forced disappearance in connection with a massacre at Cayara in May 1988, in which thirty-nine civilians were killed.

These criminal investigations face serious obstacles, however. The attorney general mandated two special prosecutors to devote themselves full-time to human rights cases, but the government has provided no funds to train them, adequately equip their offices, or cover their expenses. The armed forces deny having information to identify those who served at counter-insurgency bases implicated in abuses; military prosecutors continue to carry out parallel investigations of their own apparently aimed at blocking civilian trials, and the army and police consistently fail to carry out arrest orders. According to the human rights ombudsman, courts have issued 252 warrants

for the arrest of military and police personnel for human rights violations (naming 277 soldiers, sixty-four police officers, and fifteen marines). Yet only forty-three arrest warrants have been put into effect.

The government has also failed to provide effective protection for witnesses who testify in these cases. On two occasions in 2005 unidentified gunmen shot at Luis Ramirez Hinojosa, a key witness in a torture trial which began in October in Huancayo. In a similar 2004 attack, Ramirez was hit in the stomach by a bullet and had to undergo surgery.

### ***Torture***

Torture by police continues to be a problem, and judicial investigations in such cases are slow and frequently superficial. Those responsible, if convicted at all, usually receive light sentences and have to pay very small amounts in compensation. The Human Rights Commission (Comisin de Derechos Humanos, COMISEDH) a respected nongovernmental human rights group, documented sixteen cases of torture from January through September 2005. In four cases the victims died.

On a positive note, in January 2005 an Ayacucho court sentenced three soldiers to six years in jail for the torture in July 2002 of a nineteen-year-old military recruit. The recruit had been drugged and subjected to brutal sexual abuse in the Domingo Ayarza army base in Ayacucho. The three perpetrators were each ordered to pay the victim compensation of 6,000 soles (about U.S. \$1,800). A military judge, Maj. Jos Etel Espinoza, received a three-year suspended sentence for covering up the crime. On appeal by the prosecutor, in November the Supreme Court increased the sentences to ten years and eight years, and boosted the compensation to 30,000 soles (about U.S. \$9,000). This was believed to be the stiffest sentence ever imposed for torture in Peru.

### ***Attacks on Journalists***

Journalists and radio commentators in Peruvian provinces are vulnerable to physical attack, intimidation, and harassment for criticizing local authorities. This pattern of abuse has been constant for many years and shows the precariousness of respect for press freedom in Peru. The Inter-American Press Association reported in March 2005 that violent attacks on journalists are on the increase in Peru.

Pucallpa, a city in the coca-growing area of the Upper Huallaga valley, is a dangerous place for radio journalists. On two occasions in February 2005, armed men broke into the Radio Frecuencia Oriental radio station in Pucallpa, threatening journalist Paul Garay Ramirez with a gun on the first occasion, and severely beating him on the second. Garay said that he had been reporting on corruption in local government and in labor organizations. In October, police arrested Luis Valdez Villacorta, the mayor of the province of Coronel Portillo, after an alleged hit-man confessed that Valdez hired him to murder journalist Alberto Rivera Fernandez. A persistent critic of the provincial government and close colleague of Garay, Rivera was shot dead in April 2004.

### ***Human Rights Defenders***

Peru has a diverse and vibrant range of nongovernmental human rights groups that operate without governmental or legal restrictions. For years, however, some have suffered anonymous attacks, threats, and harassment.

In September 2005, Salomn Lerner, former president of the Truth and Reconciliation Commission, received death threats. While he was out of the country, his secretary received a telephone call from an individual who told her that Lerner should consider himself dead. Previously, Lerner had received a series of insulting and anti-Semitic emails. Other commission members received insulting messages accusing them of attacking the armed forces. The threats coincided with efforts to discredit the commission following the second anniversary of publication of its report on human rights violations and abuses committed by both sides during Peruvian armed conflict (1980-2000). Several critical articles appeared in the press signed by retired soldiers implicated in abuses. The commissioners faced nine lawsuits from senior retired officers who claimed that they had distorted the facts.

Also in September, COMISEDH, whose lawyers represent torture victims and relatives of the disappeared, suffered two anonymous attacks. On September 6, someone tied a dirty lock of human hair to the door of its office in Ayacucho. A week later, unidentified armed individuals staged a nocturnal raid on COMISEDH's office in Lima, tampered with the alarm, and disabled the phone and cable connections. Before they left the building they fired shots to scare off a night-watchman. Nothing was stolen.

Prosecutors and forensic experts working on human rights cases have also received threats. Cristina Olazbal, the special human rights prosecutor in Ayacucho, received intimidating calls from anonymous callers on several occasions while she was investigating extrajudicial executions at Accomarca and the Los Cabitos military base in Ayacucho. In February and August 2005, three experts from the Medical Legal Institute (the forensic branch of the public ministry) who were participating in the Los Cabitos investigation received threatening text messages on their cell phones. Altogether, there were forty-five incidents involving attacks, threats, and intimidation against witnesses and relatives, judges, prosecutors, forensic staff, and human rights activists from January through October 2005, according to the human rights umbrella group National Human Rights Coordinating Group.

Peruvian minister of justice acknowledged that the government had failed to provide adequate protection for participants in human rights trials. He promised to coordinate with the minister of the interior to investigate the attacks and increase the level of protection.

### ***Key International Actors***

The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights continue to consider Peruvian cases. In March 2005, the Court ordered Peru to bring to justice those responsible for the extrajudicial execution of labor leader Pedro Huilca Tecse, who was assassinated by members of the Colina death squad in December 1992. Finally admitting responsibility for his murder, the Peruvian government agreed to pay U.S.\$250,000 in compensation to his surviving relatives as well as undertake various measures of symbolic reparation.

The United States and several European countries provided funds in past years to support the work of the Truth and Reconciliation Commission. Money for the prosecutorial effort that has followed the commission's report for office equipment, computers, transportation, and the capital cost of forensic equipment and laboratories has come almost entirely from international donors. In 2005, the European Union pledged 483,447 Euros (U.S.\$586,373) to assist prosecutors and forensic investigations.

By contrast, the United States decided to axe its program of support for judicial reform initiatives. Overall aid to Peru was cut as a result of the Bush administrations policy of partially withholding assistance to countries that refuse to sign a Bilateral Immunity Agreement to shield Americans from prosecution by the International Criminal Court.

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