

# Human Rights Watch

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

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World Report 2009 Introduction By Kenneth Roth

Justice for past abuses continues to be a leading human rights concern in Peru. For the first time in its history, the country is currently trying a former president for grave human rights violations. While authorities have made some progress in holding accountable others responsible for abuses committed during Peru's 20-year internal armed conflict (1980-2000), most perpetrators continue to evade justice. Investigations of massacres and enforced disappearances by government forces have been delayed by lack of cooperation from the military.

Cases of torture and ill-treatment continue to occur. Journalists reporting on corruption in Peru's provincial cities face harassment and physical attacks. Government officials have aggressively sought to discredit nongovernmental organizations that advocate for human rights accountability.

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

On December 10, 2007, the trial began in Lima of former President Alberto Fujimori, who was extradited from Chile to face charges of human rights violations and corruption. Fujimori is accused of 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. He faces a sentence of up to 35 years' imprisonment. During 2008 the three judges of the Special Criminal Court heard evidence from Fujimori and scores of witnesses, including victims' relatives, members of the Colina group (an army death squad responsible for the killings), high-ranking military officers, journalists, and human rights experts.

In a separate trial, Gen Julio Salazar Monroe, former head of the National Intelligence Service (SIN) during the Fujimori government, was sentenced in April 2008 to 35 years in prison for ordering the Cantuta killings.

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 hampered investigation of human rights cases. The excessive workload of prosecutors, inefficiency, and inexperience in dealing with human rights cases also contribute to the delays.

According to information published by the human rights Ombudsman in December 2007, of 192 cases monitored by the institution- which include abuses committed by insurgent groups- only six had led to convictions, while 110 were still under investigation by prosecutors several years since the investigations were opened. In all, only 19 individuals had received prison sentences. In August 2008 the Ombudsman noted with concern that court proceedings were stagnating.

A decree law enacted in July 2007 to address the problem of organized crime contains a provision that could undermine accountability for police abuses. The law exempts from criminal responsibility members of the police or military who cause death or injury using firearms in the line of duty. The Ombudsman has expressed concern that this law could be invoked to halt ongoing human rights

prosecutions and has called for legislation to regulate the use of lethal force in accordance with international standards.

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 human rights Ombudsman investigated 139 complaints of torture or ill-treatment between August 2006 and September 2007. The nongovernmental Human Rights Commission (COMISEDH) documented 19 cases from January to September 2008.

The crime of torture was incorporated into the criminal code in 1998, but by the end of 2007 courts had obtained only 11 convictions. Verdicts on torture have been erratic. Although in 2008 the Supreme Court increased prison sentences in one case, another Supreme Court panel annulled a conviction for torture on the erroneous grounds that torture exists only at times of political conflict.

Journalists who publicize abuses by local government officials are vulnerable to intimidation, assault, and even murder by individuals acting in support of, or working for, municipal authorities. Between January and August 2008 the Press and Society Institute (IPYS), a nongovernmental press freedom monitoring group, issued 20 alerts on behalf of provincial journalists who alleged they had been physically attacked, threatened, or intimidated by mayors and regional authorities or their employees.

In Peru, interrupting a pregnancy is legal only in order to save the life of the woman or to avoid serious and permanent damage to her health, but there are significant barriers to accessing lawful abortions. Human Rights Watch has documented statements by women and adolescent girls who were clearly eligible for legal abortions but who were refused or were unable to access the service, with serious consequences for their mental and physical health.

Major obstacles to accessing therapeutic abortion in Peru include; vague and restrictive laws and policies on therapeutic abortion, the absence of a national protocol on eligibility and administrative procedures, ad hoc approval and referral procedures for legal abortions, and lack of accountability for non-service. These problems are compounded by healthcare providers' fear of prosecution or malpractice lawsuits, and low levels of awareness among women and healthcare providers about exceptions to the criminalization of abortion.

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

In April 2008, for example, President Alan Garca accused the Association for Human Rights (APRODEH), of "treason," after two of its leading members sent a letter to the European Parliament pointing out that the MRTA, one of the armed groups responsible for widespread abuses during the armed conflict, was no longer active, and arguing that to include it in a list of current terrorist groups would be to exaggerate its importance. Vice-President Luis Giampietri accused APRODEH's director, Francisco Sobern, of justifying terrorism (*apologia del terrorismo*), and called him a "conspicuous agitator of the masses whom the state will have to hold to account."

Soon after, the Peruvian Agency for International Cooperation (APCI), a state body that monitors development aid, announced that it was investigating APRODEH's accounts. In September 2008 APCI announced that the Legal Defense Institute (IDL), a human rights NGO that has campaigned vigorously in Peru for accountability for past human rights violations and on corruption issues, was also to be subject to a full inspection. APCI audits a random sample of NGOs every year, but it was the third time IDL had been selected in less than two years.

Rulings against Peru in the Inter-American Court of Human Rights on cases involving human rights violations during the armed conflict have provoked negative reactions from the government. In November 2006 the Court ruled on a case involving the indiscriminate killing in 1992 of 41 Shining Path prisoners at the Miguel Castro Castro prison in Lima. It ordered the government to pay compensation of about US\$20 million to the families of the dead and to individuals tortured during the operation. President Garca protested that he could not accept paying compensation to "terrorists," and, in a request for clarification filed with the Court, Peru asked if the state or private creditors could demand that the victims pay damages mandated by Peruvian courts from their compensation payments. In August 2008 the Court ruled that it was up to the Peruvian state to resolve this issue in accordance with its domestic laws.

Peru was reviewed under the Universal Periodic Review mechanism of the UN Human Rights Council in May 2008. During the review Peru pledged to report back to the Human Rights Council on its efforts to implement the recommendations of the Truth and Reconciliation Commission, in particular with regard to victims' compensation and institutional reform, including bringing to justice those responsible for human rights violations during the 20-year armed conflict.

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