

# Human Rights Watch

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

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### Annual reports

Events of 2010

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The Misuse of Dialogue and Cooperation with Rights Abusers

Protecting Students, Teachers, and Schools from Attack

The Changing Media Landscape and NGOs

Judicial efforts to hold military and police personnel accountable for abuses committed during Peru's internal armed conflict yielded disappointing results in 2010. Government officials have often criticized the process, rather than supported it, and in 2010 President Alan Garca signed a decree amounting to a blanket amnesty that would leave most of the crimes unpunished. The measure was eventually withdrawn after national and international protests. Nevertheless, the military's refusal to provide information continues to obstruct judicial investigations, and most perpetrators have evaded justice.

There have been several incidents in which police have overstepped international norms on the use of lethal force in controlling protests and demonstrations. Torture, although not practiced systematically, continues to be a problem.

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

In August 2010 President Garca signed into law a decree that amounted to a disguised amnesty for perpetrators of human rights violations during the armed conflict. Decree 1097 violates Peru's international human rights obligations by allowing a statute of limitations to be applied to crimes against humanity committed before 2003, the year Peru ratified the United Nations Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Such crimes would include atrocities committed during the first government of Alan Garca, such as the massacre of 122 prisoners at El Fronton prison in 1986. Decree 1097 also obliged judges to close judicial proceedings against military and police personnel if formal charges were not presented within the 36 month maximum allowed by law. Within days a general and several members of the Colina Group, a death squad responsible for killings and "disappearances" during the government of Alberto Fujimori, asked a judge to close investigations against them. President Garca initially defended the decree but changed his mind after intense international and domestic criticism. In September Congress approved a government bill to repeal the decree with an overwhelming majority.

In December 2009 a Supreme Court panel unanimously confirmed a 25 year prison sentence for former president Alberto Fujimori 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 was the first democratically elected Latin American leader to be convicted for grave human rights violations in his own country.

Given the landmark significance of the Fujimori conviction, prosecutions in other human rights cases from the armed conflict period have had disappointing results, with convictions trailing behind the number of acquittals. In June 2010 the National Human Rights Coordinator, an NGO that monitors accountability, reported that the National Criminal Court, created in 2004 to hear cases involving human rights violations and terrorism, had acquitted 65 military and police agents, convicted only 15, and dismissed 23 cases.

The Peruvian military has consistently failed to provide information to help prosecutors identify officers who participated in atrocities. Mainly as a result of this lack of cooperation, prosecutors and lawyers for relatives of victims have had difficulty assembling evidence that meets the rigorous standards courts demand. For instance, army and Ministry of Defense officials denied the detention of two students, Alcides Ccopa Taype and Francisco Juan Fernández Glvez, who "disappeared" in Huancayo in October 1990. In June 2010 the National Criminal Court acquitted two army generals responsible for military operations in the zone. The court discounted the testimony of a former detainee, who had seen the students held at the army base, and the evidence of other witnesses who claimed to have seen them in custody.

Several former senior military officials facing charges have used tactics to delay court proceedings and then filed habeas corpus petitions to the Constitutional Court, claiming that their right to a trial within a reasonable time had been violated.

In recent years there have been several violent clashes between protesters and police, with deaths on both sides. In some of these incidents police appear to have used lethal force unjustifiably.

In April 2010, five civilians were killed and 16 were wounded by gunshots when police opened fire to clear a demonstration by 6,000 striking miners who had blocked a major highway in Chala, Caraveli province. A woman, who was not participating in the events, reportedly died of a heart attack. As of September, 61 police officers were facing charges.

Controversy continues to surround the circumstances in which 33 people were killed (23 police and 10 civilians) in June 2009 in violent clashes between police and indigenous protesters in the provinces of Utcubamba and Bagua in the Peruvian Amazon. An investigative commission appointed in July 2009 placed most of the blame on the indigenous protesters, and the interference of "outside actors." However, two commissioners, including an indigenous member, refused to sign the commission's report. They published a minority version, citing evidence that the protesters were unarmed when the police started to shoot at them. In May 2010 Alberto Pizango, an indigenous leader who was accused of instigating the protest, was arrested on charges of sedition and incitement on his return from exile in Nicaragua. No ministers or police commanders were prosecuted for their handling of the protest.

In August 2010 the president issued a decree that would allow the armed forces to confront a "hostile group" in law enforcement situations using military rules of engagement. The definition of "hostile group" is loosely worded to include those armed with spears or knives or heavy objects such as rocks, raising concerns that the decree could be used to justify the use of excessive force against indigenous protesters.

Torture remains a problem. The Human Rights Ombudsman and human rights NGOs continue to report beatings by police and by members of municipal security patrols. They also report victimization of military recruits by superior officers, such as the case in August 2010 of a soldier doing military service in Iquitos who was allegedly forced by an army major to swallow keys after a dispute. Courts often classify cases of torture according to the seriousness of physical injuries, considering less serious injuries to be cases of "wounding," which carries a lower penalty that does not normally involve incarceration.

Peru's restrictive abortion laws and policies, which generally criminalize abortion and provide only vague guidance on when an abortion may be procured lawfully, contribute to maternal death and disability. In 2005 the UN Human Rights Committee ruled that the Peruvian state's failure to provide an abortion for an adolescent girl carrying an anencephalic pregnancy constituted a violation of several human rights, including the right to freedom from torture, and that the government had an obligation to ensure that a similar situation would not occur in the future. Even so, and despite much pressure from Peruvian civil society groups, the government has yet to adopt clear legal guidelines for the provision of legal abortion.

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 October 2010 the Ministry of Transport and Communications provisionally restored the broadcasting license of Radio La Voz de Bagua, a local radio station in the Peruvian Amazon, which was revoked in June 2009 after the minister of the interior and members of the president's American Revolutionary People's Alliance accused it of inciting violence during its coverage of the civil unrest in Bagua.

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.

In recent years NGOs defending indigenous and environmental rights in areas affected by mining operations have been subject to threats and judicial harassment for allegedly organizing or participating in protests. The government abruptly revoked the residency permit of Paul McAuley, a British lay member of a Catholic order who heads an environmental association in Iquitos in the Peruvian Amazon, and who has lived in Peru for 20 years.

Following a visit to Peru in September 2010, the UN special rapporteur on human rights and terrorism described Decree 1097 on the use of force by the military as "likely to lead to breaches of international law." He also expressed concern that the decree could lead to the use of unjustifiable force against unarmed protestors.

In September 2010 the Inter-American Commission on Human Rights expressed concern that Decree 1097 "could lead to impunity in hundreds of cases of human right

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