

# Human Rights Watch

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

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### Annual reports

Events of 2012

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The Human Cost of Environmental Neglect

When "Values" Trample Over Rights

A Failed Approach to Corporate Accountability

In recent years, public protests against large-scale mining projects, as well as other government policies and private sector initiatives, have led to numerous confrontations between police and protesters, and resulted in the shooting deaths of civilians by state security forces. As of September 2012, 18 civilians had been killed during protests since President Ollanta Humala took office in July 2011. In May 2012, Humala lodged important objections to a legislative bill that would weaken the protection of civilians against the unlawful use of lethal force by police.

Efforts to prosecute those responsible for the many egregious abuses committed during Peru's internal armed conflict (1980-2000) have had mixed results. The conviction in 2009 and 2010 of former President Alberto Fujimori, his advisor Vladimiro Montesinos, several army generals, and members of a government death squad were notable advances in accountability. However, progress on cases involving abuses committed under earlier administrations has been very limited.

The use of lethal force against public protesters is an ongoing problem. In addition to the 18 civilians killed during protests since President Humala took office, 165 civilians and 30 police officers were killed during the administration of his predecessor, Alan Garca (2006-2011).

In some cases, the Peruvian police and army appear to have used lethal force unlawfully. For example, in July, four civilians were fatally shot in Celendn, Cajamarca, when soldiers reportedly opened fire on unarmed protesters.

Police guidelines require police officers to observe international norms on the use of force, but a bill under debate in Congress in November 2012 to which President Humala had lodged significant objections would undercut these guidelines and authorize the use of lethal force in circumstances that international standards do not permit.

Military courts that lack independence and impartiality continue to conduct trials of military officials accused of human rights abuses. Legislative Decree 1095 which was issued in 2010 by then President Alan Garca to regulate the use of the armed forces in public security operations provides that illicit conduct committed by military personnel when applying the decree or during the course of their duties is subject to military court jurisdiction. This violates earlier rulings of Peru's Supreme Court and Constitutional Tribunal, and of the Inter-American Court of Human Rights (IACtHR).

Peru's Truth and Reconciliation Commission estimated that almost 70,000 people died or were subject to enforced disappearance during the country's armed conflict between 1980 and 2000. Many were victims of atrocities by the Shining Path and other insurgent groups; others were victims of human rights violations by state agents.

Former President Fujimori was sentenced in 2009 to 25 years in prison for killings and disappearances in 1991 and 1992. His intelligence

advisor, Vladimiro Montesinos, three former army generals, and members of the Colina group, a government death squad, are also serving sentences ranging from 15 to 25 years for the assassination in 1991 of 15 people in the Lima district of Barrios Altos, and for 6 disappearances.

In July 2012, the Permanent Criminal Chamber of the Supreme Court reduced the sentences in the Barrios Altos case on appeal. By denying that the crimes were crimes against humanity, the court undercut the jurisprudence established by the Supreme Courts Special Criminal Chamber in the Fujimori case. The Ministry of Justice and Human Rights filed an appeal for the sentence to be annulled on constitutional grounds. In September, the Permanent Criminal Chamber rescinded the sentence, after the IACtHR ruled that it was incompatible with the country's human rights obligations.

Progress to hold accountable those responsible for human rights violations under earlier governments has been very limited. Prosecutors have not yet presented charges or have closed hundreds of cases, partly due to the Ministry of Defense and the army failing to cooperate in providing information essential to identify perpetrators.

Torture continues to be a problem. The Human Rights ombudsmans office received 62 denunciations of torture and ill-treatment by the police in 2011, and 18 during the first 6 months of 2012. A third of the 144 victims whose cases were being monitored in 2012 by the nongovernmental organization, COMISEDH, died or suffered permanent physical disabilities as a result of torture. According to COMISEDH, many victims do not make formal complaints about their torture, and those who do have trouble obtaining judicial redress and adequate compensation.

Journalists continue to receive suspended prison sentences and face fines for defamation. In June 2012, a court gave two journalists from the newspaper *Diario 16*, Juan Carlos Tafur and Roberto More, two-year suspended prison sentences and ordered each to pay compensation of 60,000 nuevos soles (about US\$23,000) to a former police general whom the newspaper had linked to a family whose members faced money-laundering charges.

A bill that would replace prison sentences of up to three years for defamations as stipulated in the current law with community service and fines, is still awaiting a vote in the legislature. Although Congress approved the bill in July 2011, former President Garca lodged objections that must still be debated and voted on before the bill can become law.

In August 2012, President Humala introduced a bill that would introduce prison sentences of up to eight years for anyone who approves, justifies, denies or minimizes the crimes committed by members of terrorist organizations for which courts have issued a final verdict. The bill contains broad language that could criminalize publishing legitimate criticism of judicial decisions, such as the guilt of an alleged offender or the penalty imposed, if a social group affected by terrorism felt belittled, offended, or insulted by it. By the end of October, Congress had still to debate the bill.

Journalists in Peru's provinces face threats and physical attack for criticizing local authorities. Some of these attacks have been attributed to individuals hired by elected officials. For example, a police investigation found that a mayor in Casma, Ancash, ordered the murder of Pedro Alonso Flores, the director of a local TV news program who was his staunch critic. Flores was shot to death in Ancash in September 2011 after reportedly receiving death threats. At this writing, the prosecutor had brought no charges.

Under Peru's system of judicial interdiction, judges can determine that individuals with certain multisensory, intellectual, or mental disabilities are incompetent and assign them legal guardians, effectively suspending their basic civil rights, including the right to vote. International and regional human rights bodies have called on Peru to abolish judicial interdiction because it is incompatible with Peru's obligations under the Convention on the Rights of Persons with Disabilities (CRPD).

In June 2012, the General Law on People with Disabilities passed an initial vote in Congress. The proposed law would help bring existing national legislation in line with the convention, protecting the right of people with disabilities to act in their own interests, with appropriate support when necessary. As of November, a final vote on the bill was still pending.

In January and May 2012, at least 41 people were killed and 5 critically injured in fires that swept through two privately run drug rehabilitation facilities, where patients were trapped behind locked doors and barred windows. Local authorities subsequently inspected and closed some unlicensed centers. In May, Congress passed a law permitting involuntary detention for treatment of drug dependence in broad circumstances, raising concerns that people who use drugs would continue to face involuntary detention and ill-treatment in circumstances that violate international standards.

In September 2011, pursuant to Convention 169 of the International Labour Organization (ILO), the government promulgated a law giving Peru's indigenous communities the right to be consulted over legislative or administrative issues that directly affect them. The first consultation under the law, over an oil exploration project affecting indigenous communities in Loreto department in the Peruvian Amazon, is scheduled for early 2013.

Women and girls in Peru have the right to seek abortions only in cases of medical necessity; however the country lacks clear protocols that enable health providers to determine in which specific circumstances an abortion may be lawful. Both the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) and the UN Committee on Economic, Social and Cultural Rights (CESCR) have called on Peru to establish such protocols, as well as to legalize abortion in cases in which the pregnancy is the result of rape. At this writing, the government had failed to comply with these recommendations.

On at least two occasions in 2012, police arbitrarily detained or mistreated human rights workers when they tried to protect detainees' rights. In May 2012, police arrested two workers at the Vicariate of Solidarity of Sicuani, a church-based human rights group, as they waited in a jeep outside a mining camp in Espinar, Cusco, while lawyer colleagues checked on detainees reportedly held there. The police told a prosecutor they had found ammunition under the back seat. A judge found that the arrests were illegal.

Police in Cajamarca prevented Genoveva Gmez, a lawyer from the Human Rights ombudsmans office, and Amparo Abanto, a lawyer from the NGO GRUFIDES, from intervening to help detainees they thought were being beaten in the police station during protests in the city in June 2012. Gmez was wearing a jacket and a card that identified her as a member of the ombudsmans office. She reported that

about 20 police forced her out of the building, insulted her, pulled her hair, hit, and kicked her. The Human Rights ombudsmans office filed a complaint with the attorney generals office, but at this writing, no action had been taken against the police involved in the incident.

In September 2012, the Inter-American Court of Human Rights (IACtHR) ruled that the verdict of the Supreme Courts Permanent Criminal Chamber in the Barrios Altos case was incompatible with Perus obligation to ensure that the events were fully investigated and those responsible held accountable.

In December 2011, the Inter-American Commission on Human Rights asked the IACtHR to open a case against Peru for the alleged extrajudicial execution of three former members of the Tupac Amaru Revolutionary Movement (MRTA) who were killed in April 1997 during a commando operation to free hostages held by the MRTA in the Lima residence of the Japanese ambassador. The commission had recommended that the case, which a military court had closed in 2004, reopen under civilian jurisdiction. In October 2012, a Lima court found that one of the MRTA members had been extrajudicially executed, but acquitted the three main suspects, including Vladimiro Montesinos.

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