

**AMNESTY INTERNATIONAL**  
**ANNUAL REPORT EXTRACTS 2005-2007**

**PERU**

**2007**

Death penalty: abolitionist for ordinary crimes

International Criminal Court: ratified.

Discrimination in the provision of maternal and infant health care to marginalized communities continued. Human rights defenders were threatened and intimidated. Some progress was made in bringing the perpetrators of human rights violations in previous years to justice. There were fears that the death penalty could be extended.

**Background**

Newly elected President Alan García promised to implement austerity plans, including wage cuts for government officials and civil servants, and to increase expenditure to improve the living conditions of those in poverty. However, he did not commit himself to implement the National Human Rights Plan which was agreed by the government at the end of 2005.

Independent candidates won the majority of votes in the November regional and municipal elections.

The Constitutional Court ruled that some articles of the new legislation on the military and police justice system were unconstitutional because they violated principles of independence and impartiality. In December, Congress passed legislation allowing the military justice system to remain in force until June 2007.

The state of emergency declared in 2003 in various provinces in the departments of Ayacucho, Huancavelica, Cusco and Junín, remained in place. There were reports that the armed group Shining Path (Sendero Luminoso) continued to be active in these areas.

Two leaders of Shining Path, Abimael Guzmán and Elena Iparraguirre, were sentenced in a civilian court to life imprisonment. Nine other high-ranking members of Shining Path were also sentenced to between 25 and 35 years' imprisonment. Two others were acquitted. All had previously been tried and convicted by military courts which were neither independent nor impartial.

**Right to health**

Hundreds of women and children from marginalized communities continued to die unnecessarily because of discrimination in the provision of maternal and infant health care. Despite the development of state health insurance for those on lower incomes, the scheme was not reaching many women and children from poor communities.

Maternal and child mortality rates remained among the highest in the region. In the rural areas the likelihood of dying from maternity-related causes was twice as high as in urban areas, and considerable differences persisted between urban and rural areas in access to medical care.

**Human rights defenders**

Human rights defenders, including victims of human rights violations and their relatives, witnesses, prosecutors and forensic experts, continued to be threatened and intimidated because of their activities. Threats were rarely investigated and none of the perpetrators were brought to justice.

Congress passed legislation which required non-governmental organizations seeking international funding to be supervised by government authorities who would assess whether their work complied with national development policies. There were concerns that this could restrict the work and independence of human rights defenders.

## **Environmental concerns**

Scores of demonstrators were injured and one was shot dead during violent clashes with the police and security personnel of the Yanacocha gold mining project in Cajamarca Province. The demonstrators had blocked a road to protest against the environmental impact of El Azufre dry dock which was under construction by the project. Following this incident members of the non-governmental organization supporting the communities who opposed the gold mining project, Training and Intervention Group for Sustainable Development (Grupo de Formación e Intervención para el Desarrollo Sostenible, GRUFIDES), were repeatedly threatened and intimidated. One of those protesting against the project, environmentalist Edmundo Becerra Corina, was shot dead in Yanacanchilla, Cajamarca Province. He had reportedly received several death threats because of his opposition to the expansion of the mining company's activities to San Cirilo hills. The attack took place days before his meeting with the Ministry of Energy and Mines.

## **Death penalty**

At the end of the year Congress was considering four draft bills, three of which would extend the scope of the death penalty to offences including the rape of children and of people with physical or mental disabilities, and the fourth draft bill would regulate the enforcement of the death penalty in cases of terrorism. Two of the bills also proposed the withdrawal of Peru from the American Convention on Human Rights, which prohibits the extension of the death penalty. At present the Constitution allows for the death penalty for treason in time of war and terrorism. No one had been sentenced to death since the current Constitution came into force in 1993.

## **Justice and impunity**

Four police officers were sentenced to prison terms of between 15 and 16 years for the enforced disappearance of student Ernesto Castillo Páez in Lima in 1990. They were the first ever members of the security forces to be convicted of enforced disappearance.

The investigation and prosecution of the 47 cases of past human rights violations documented by the Truth and Reconciliation Commission made slow progress. According to the Ombudsman's Office, only two new cases went to trial in 2006, bringing the number of cases in the judicial system to 24. The rest of the 47 cases remained at the investigation stage at the end of the year.

The armed forces continued to refuse to co-operate with civilian courts trying and investigating military officers accused of past human rights violations.

Legislation was passed to grant legal aid to military officers accused of past human rights violations. No legal aid was granted to victims of violations and their relatives, despite reports that nearly 70 per cent of victims had no access to legal representation.

Congress passed the Regulation of the Comprehensive Reparation Plan to provide redress to victims of human rights violations during the 20-year armed conflict. The National Council of Reparations, responsible for creating an official registry of victims, was established in October. Ollanta Humala, runner-up in the presidential elections, was charged with offences including murder and enforced disappearance committed when he was a captain at a military base in San Martín department, northern Peru, between 1991 and 1992. The investigation had not concluded by the end of the year.

For the third time, the Special Attorney's Office on Forced Disappearance, Extrajudicial Execution and Exhumations of Mass Graves closed the investigation into the alleged responsibility of President Alan García, former members of his cabinet and top-ranking military officers in the killing of at least 118 inmates by navy officers during a riot in 1986 at the El Fronton prison in Lima. Human rights organizations representing the victims' relatives and some of the survivors appealed against the decision. The appeal remained pending at the end of the year.

## **Inter-governmental organizations**

The Committee against Torture expressed concern at continuing complaints of torture against the police, the military and prison officials, as well as allegations of reprisals, intimidation and threats against those who reported these violations. The Committee urged Peru to guarantee prompt, impartial and thorough investigations in the civilian criminal justice system. The Committee on the Rights of the Child expressed concern about high levels of poverty and urged Peru to take action to ensure universal access to basic goods and services, including housing and clean drinking water, paying special attention to remote and rural areas.

## **2006**

Death penalty: abolitionist for ordinary crimes  
International Criminal Court: ratified  
UN Women's Convention and its Optional Protocol: ratified

Some of the Truth and Reconciliation Commission's recommendations were implemented, but progress on bringing perpetrators to justice remained slow. Human rights defenders, prosecutors and witnesses were subjected to threats and attacks. Military and police officers accused of torture and ill-treatment continued to be charged with lesser offences. There were concerns about access to health care, especially for low-income families.

### **Background**

2005 saw social unrest and increasing demands for better living and working conditions. A 30-day state of emergency was declared in Apurímac department after a group of former army reservists calling for the resignation of President Toledo seized a police station in Andahuaylas. Four police officers held as hostages and one reservist were reportedly killed. There were reports of violent clashes with security forces and the possible use of excessive force by police and military during protests against mining projects in Piura and Huaraz departments.

Small cells of the armed opposition group Shining Path (Sendero Luminoso) reportedly continued to operate in some areas in Huallaga, Huánuco department, Ayacucho department, and Satipo, Junín department. Shining Path's leaders, who had been tried in military courts in the 1990s, were put on trial again, this time in civil courts.

In November, former President Alberto Fujimori, who was accused of human rights violations, was detained while in Chile pending an extradition request from the Peruvian authorities.

Draft legislation to reform the military and police justice systems failed to comply with a 2004 ruling by the Constitutional Court. The draft law did not define the term offences "committed in the line of duty" or integrate military and police courts into the civilian judicial system.

A permanent Human Rights Ombudsman was appointed by Congress, four years after the last permanent post-holder left office.

In December, the first ever National Human Rights Plan was agreed. However, there were concerns that the plan, which covers the period 2006 to 2010, does not address discrimination on the basis of sexual identity or orientation.

### **Past human rights violations**

The government failed to fulfil the commitment made in 2001 to comply with recommendations of the Inter-American Commission on Human Rights regarding 165 cases of human rights violations. The recommendations included establishing the truth, bringing those responsible to justice and compensating victims and their relatives.

Congress passed legislation establishing a Comprehensive Reparations Plan and a single register of people whose human rights had been violated during the internal armed conflict. President Alejandro Toledo made a commitment to fund collective reparations and to consider

individual reparations. Remembrance events and memorials were organized to mark the second anniversary of the publication of the Final Report of the Truth and Reconciliation Commission (TRC). Investigations were opened into 26 of the 59 cases of human rights violations documented by the TRC and the Ombudsman's Office. Some trials began during 2005, but no cases had been resolved by the end of the year. There were concerns that detention orders against military and police officers accused of past human rights violations were not being enforced. Some of these cases continued to be tried in military courts. In some cases, the Ministry of Defence had reportedly not co-operated with civilian courts investigating military officers accused of past violations.

### **Threats and intimidation**

Local human rights organizations registered 46 cases of threats and intimidation of human rights defenders, witnesses, victims and their relatives, judges, prosecutors and forensic experts involved in the investigation and trial of past human rights violations documented by the TRC. According to an Ombudsman's report, those who were threatened and intimidated had been provided with inadequate or no protection at all.

### **The legacy of the counter-insurgency**

Three prisoners of conscience were released, but there were concerns that dozens of prisoners of conscience and possible prisoners of conscience unfairly charged with terrorism-related offences remained in jail.

### **Torture and ill-treatment**

There were reports of torture and ill-treatment of detainees by members of the police and of military officers and conscripts by higher-ranking officers. Legislation introduced in 1998 to criminalize torture remained largely ineffective and suspected perpetrators continued to be charged with lesser offences.

### **Prison conditions**

In February, the government stated that the national prison system was in crisis because of overcrowding, inadequate infrastructure and insufficient staff to guarantee security. The government announced increased funding, up to 400 new prison staff, the opening of a new prison and construction of two more in Lima department, and the enlargement of other centres in Ica and Piura departments.

Following sustained national and international pressure, all inmates at Challapalca prison, located more than 4,600m above sea level in an extremely isolated area, were transferred to other prisons.

### **Violence against women**

The Ombudsman expressed concern that the legislation prohibiting violence against women was still not being implemented by some police officers and judges and that only a small number of perpetrators had been convicted. Delays in the investigation and trial of these cases was also a concern.

Women's organizations expressed concerns about the lack of resources provided to the Human Rights Prosecutor's Office investigating forced sterilizations under the former government of Alberto Fujimori.

### **Economic, social and cultural rights**

The World Health Organization reported that maternity and child mortality rates remained high. Despite legal provisions on the right to health and measures taken in recent years to improve

access to free maternity and child health care for people on low income, there were concerns that this was not reaching people in the most vulnerable communities.

According to a report by the Ombudsman, more than 25 per cent of people lacked adequate access to drinking water; in rural areas this rose to 38 per cent.

## **2005**

Death penalty: abolitionist for ordinary crimes

International Criminal Court: ratified

UN Women's Convention and its Optional Protocol: ratified

Some of the Truth and Reconciliation Commission's recommendations were implemented. Military courts continued to claim jurisdiction over cases of human rights violations. Trade unionists and journalists were among those subjected to threats and attacks. There were reports of torture and ill-treatment of detainees and of excessive use of force by police. Prison conditions remained harsh.

### **Background**

Throughout 2004 there were mass demonstrations and strikes to protest against government policies and demand better working conditions. According to the UN, over 50 per cent of Peruvians lived in poverty and almost 25 per cent in extreme poverty. In rural areas, widespread discontent with local authorities reportedly led to violent social unrest, including the murder by lynching of a mayor accused of corruption in Ilave, Puno. In two other districts in the same department a 30-day state of emergency was declared following violent clashes between police and protesters.

Small groups of members of the armed opposition group Shining Path reportedly continued to operate in some areas. In June there were reports of ambushes by Shining Path in the highlands and central jungle regions.

No progress was made over the extradition of former President Alberto Fujimori from Japan on charges of human rights violations, and a second extradition request was filed on corruption charges.

In October the Constitutional Court ruled that articles of military law criminalizing homosexuality were unconstitutional.

### **Past human rights abuses**

The government established a system of prosecutors' offices and courts to investigate and try past human rights abuses. It also announced several initiatives to offer reparation to the victims of human rights abuses and their families and to assist development in areas affected by violence. However, by the end of 2004, very few people had received compensation. Trials had started in only three of 43 cases of human rights abuses presented by the Truth and Reconciliation Commission to the Attorney General's Office.

### **Military courts**

Cases of human rights violations continued to be transferred to military courts, despite the Constitutional Court's ruling in August that military courts should only try offences committed in the line of duty. However, there were positive developments in November and December when the Supreme Court of Justice ruled in favour of civilian courts over military courts in two such cases where the jurisdiction had been disputed.

In August the Supreme Council of Military Justice confirmed the dismissal of the charges by a military court in 1994 of the former presidential adviser on intelligence, Vladimiro Montesinos; the former Commander in Chief of the Armed Forces, Nicolás Hermoza Ríos; and the retired General Luis Pérez Documet for their alleged involvement in the killing and "disappearance" of nine students and a teacher in 1992.

### **Women's rights**

Violence against women in the family remained a concern, despite implementation of legal reforms during the previous decade aimed at tackling the problem.

Draft legislation on equal opportunities and gender equality was still pending in Congress after more than two years.

No progress was made in over 500 cases documented by the Truth and Reconciliation Commission of women and girls raped, mainly by the military, during the internal armed conflict.

### **Prison conditions, torture and ill-treatment**

Prison conditions remained harsh. Conditions in maximum security prisons in some cases amounted to cruel, inhuman and degrading treatment. Despite calls for the closures of Challapalca and Yanamayo prisons, in Tacna and Puno, both remained open.

Torture and ill-treatment of detainees by security officials remained a concern. Legislation introduced in 1998 to criminalize torture had led to only three convictions by the end of 2004.

### **Threats and intimidation**

There were reports of threats and attacks against trade unionists, journalists, human rights defenders, and victims and witnesses of human rights violations. In two separate cases local authorities appeared implicated in the alleged murders of journalists.

### **The legacy of the counter-insurgency**

Retrials began in the cases of scores of political prisoners after the Constitutional Court ruled in 2003 that life imprisonment and the use of military courts to try civilians were unconstitutional. The 2003 decree laws issued to conform with this ruling annulled sentences handed down by military courts for the crime of "treason" and ordered that cases be retried in civilian courts. They also ordered the retrial of all those tried between 1992 and 1997 by civilian "faceless judges" (judges whose identities were kept secret). Cases being retried included that of Abimael Guzmán, the former leader of Shining Path. Hundreds of people were awaiting retrial.

The National Terrorism Court began reviewing irregular or incomplete arrest warrants issued under the same 1992 legislation. During the year over 3,000 people reportedly had warrants withdrawn.

Prisoners of conscience and possible prisoners of conscience unfairly charged with "terrorism-related" offences remained in prison. There were serious concerns that they would remain in prison while awaiting retrial within a slow and inefficient judicial system.

### **Transnational companies**

In February a Canadian mining company announced that it would begin arbitration proceedings over a 2003 government ruling to block a mining project in Tambogrande, Piura. The project faced strong opposition from local inhabitants who feared that mining in the area would result in water and soil contamination and endanger crops, threatening their social and economic rights.

In September the government withdrew permission from a transnational mining company to carry out gold exploration in Cerro Quilish, Cajamarca, following protests by local peasants who argued that mining would damage water supplies.

### **Economic, social and cultural rights**

The UN Special Rapporteur on the right to health expressed concerns that a trade agreement with the USA would lead to essential drugs becoming unaffordable for millions of Peruvians. He stated that many Peruvians died from treatable medical conditions.

The UN Special Rapporteur on the right to adequate housing raised concerns that public housing programmes did not reach those living in extreme poverty.