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U.S. Department of State

Peru Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

PERU

Peru is a multiparty republic with a dominant executive branch that often uses its control of the legislature and the judiciary to the detriment of the democratic process. Under provisions of a Constitution enacted in 1993, President Alberto Fujimori was reelected to a second 5-year term in 1995, at which time his party also won a controlling majority in Congress. In 1996 the congressional majority, faced with the constitutional provision limiting presidents to no more than two consecutive terms in office, passed a law that would permit President Fujimori to run for a third consecutive term. Congress removed three members of the Constitutional Tribunal who had declared themselves against the interpretation allowing a third term, and the Tribunal ceased to function effectively, unable to rule on any constitutional issues for lack of a quorum. Although the Constitution provides for an independent judiciary, in practice the judicial system is inefficient, often corrupt, and has appeared to be easily manipulated by the executive branch.

The police and military share the responsibility for internal security. However, in May President Fujimori issued a decree granting the National Intelligence Service an as-yet-unspecified role in anticrime efforts. Since 1980 the security forces have directed most of their efforts against the Sendero Luminoso (Shining Path) and Tupac Amaru Revolutionary Movement (MRTA) terrorist groups. Due in large part to the Governmentâs strong actions, the threat posed by these groups continued to decline in overall terms. Within specified emergency zones, which cover 16 percent of the country and where the military is in charge, certain constitutional protections are suspended. In the rest of the country, the civilian authorities generally maintain effective control of the security forces. Nevertheless, the military and the police were responsible for serious human rights abuses.

The Government has implemented major economic reforms, transforming the economy from one based on heavy regulation to a market-oriented one. The Government has eliminated controls on capital flows, prices, and trade. It has privatized most state enterprises and plans to sell those that remain by the end of 1999. The inflation rate has dropped into single digits, and growth and foreign investment have soared. Per capita gross domestic product is estimated at $2,000. Major exports include copper as well as other minerals, fishmeal, and textiles. Illegal exports of processed coca are thought to have earned about $300 to $500 million annually in past years. The unemployment rate in Lima is estimated at 8 percent, but the national rate of underemployment is about 40 percent. More than half of the economically active population work in the informal sector of the economy, which largely functions beyond government supervision and taxation. The poor constitute 50 percent of the population, and slightly less than 15 percent of the population live in extreme poverty.

Although egregious abuses of human rights continued to decline, there were serious problems in several areas. Security forces were responsible for torture and beatings, and impunity remained a problem. In February two of the four officers who had been sentenced to prison for torturing Army Intelligence Service (SIE) officer Leonor La Rosa in 1997 were pardoned and released. Overall prison conditions remained extremely harsh, particularly in maximum security facilities. Arbitrary arrest and detention, prolonged pretrial detention, absence of accountability, lack of due process, and lengthy trial delays remained problems. The general inefficiency of the judicial system persisted, and it remained subject to executive influence. It is widely believed that the Government infringed on citizensâ privacy rights. A congressional investigation of a reported secret government intelligence program to monitor the telephones of a broad spectrum of government officials, opposition politicians, journalists, business executives, and other public figures found no evidence of government wrongdoing and sought to blame the journalists who had uncovered the monitoring program for having themselves instigated it. The Government infringed on press freedom. Journalists faced increased harassment and intimidation and practiced even greater self-censorship. The Government allegedly instigated and financed a media campaign by the tabloid press defaming the investigative staff of an opposition newspaper. The authorities at times hindered the operations of human rights monitors. Violence and discrimination against women were widespread. Violence against children and discrimination against the disabled, indigenous people, and racial and ethnic minorities remained problems. Child labor, including forced child labor, remained a serious problem.

The office of the Defender of the People, or Human Rights Ombudsman, continued to enjoy the public's respect and confidence. The ad hoc Pardons Commission so far has received pardon applications from 80 percent of those individuals unjustly jailed for terrorism or treason. During the year, the Commission continued to recommend presidential pardons for applicants, and won the release of an additional 102 detainees, bringing the total of those pardoned and released to 462. The President signed into law legislation classifying torture as a crime to be tried in civilian courts. Following the 1997 abolition of the "faceless" (anonymous) tribunals, the civilian jurisdiction created a new system of specialized terrorism courts with identifiable judges and a greater degree of due process.

Sendero Luminoso and MRTA terrorists continued to commit the great majority of killings and other egregious abuses. Members of Sendero Luminoso used torture and other forms of brutality, disrupted home and family life of many citizens, and violated the rights of indigenous people. Due to the overall decline in the threat posed by these groups, there was a corresponding reduction in the abuses that they committed.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were press reports of five extrajudicial killings carried out by the security forces, one of which may have been politically motivated. In all cases, the alleged perpetrators were detained and charged.

On the night of April 14, a 12-man army unit on an antiterrorist patrol killed Emetrio Santos Calvay, a teacher, and one of his friends, near Chiclayo, allegedly because they suspected that the victims were terrorists, although the unit had no evidence that this was the case. The patrol members attempted to conceal the true nature of the incident by claiming that they had clashed with a band of 30 terrorists and, in order to substantiate their story, even lightly injured 2 of their own patrol members. However, their credibility became suspect when they were unable to produce any of the alleged terrorists' weapons and failed to file an official report of the incident. The local prosecutor filed charges against some of the men. On November 30, a court sentenced the planner of the crime to 18 years in prison, the three men who actually carried out the killings to 12-year sentences, and five accomplices to 5 years in prison.

On February 7, two police officers accosted Willy Llerena Macedo and Paolo Herrera Lesama in the city of Pucallpa. The officers beat the men in the face and drove them to a police station where the assault and beating continued, before Paolo Herrera was eventually released. After learning of his whereabouts, Llerenaâs relatives arrived at the police station where they were denied any information. On February 9, the relatives again went to the station where they were told that Llerena had been hospitalized. Hospital officials told them that Llerena had died and that his body was at the morgue. According to the death certificate, death was caused by severe blows to the head. The two police officers were charged with causing serious injury resulting in death and with abuse of authority.

In March two soldiers killed farm hands Genaro Julca Bula and Alberto Aponte in the village of Lumbra, Huaral province. The authorities brought charges against the soldiers, Carlos Quito Lopez and Raul Quito Herrera, as well as against two other soldiers at the base who had supplied them with weapons. The authorities ordered the accused soldiers to appear before court in March 1999.

No progress was made in the case of Mariela Barreto, an SIE agent whose dismembered and decapitated body was found in March 1997. Although President Fujimori had promised an exhaustive investigation, neither the Public Ministry nor the police so far have succeeded in determining a motive for the killing or a likely suspect. However, in a March 16 television interview from abroad, Luisa Margarita Zanatta Muedas, a former SIE agent, provided what appeared to be credible information about wiretapping and other operations conducted by her former agency. In response to the interview and to a congressional request, Human Rights Ombudsman Jorge Santistevan dispatched two members of his staff to interview Zanatta for additional leads regarding the Barreto case.

In June a specialized criminal court in Iquitos sentenced six soldiers to 20 yearsâ imprisonment and their commanding officer Milton Trigoso to life in prison, in a case of kidnaping, aggravated robbery, and homicide. The 7 were among 16 soldiers who were arrested and discharged from the service for having beaten, robbed, and murdered 2 Japanese students who had been exploring the Amazon River by raft in 1997. The incident led to strong public criticism, both because of the country's generally close ties with Japan and, more specifically, because of the MRTA hostage crisis at the Japanese Ambassador's residence, which ended in April 1997. In a move atypical of cases involving members of the armed forces, President Fujimori had announced that those responsible would be tried in a civilian rather than a military court. In addition, the Public Ministry appointed a special prosecutor from Lima to go to Iquitos and carry out the investigation phase of the case. Trigoso's lawyer said that he would appeal his client's sentence.

The December 1992 killing of union leader Pedro Huillca Tecse was initially thought to have been carried out by Sendero Luminoso terrorists. However, in September 1995, jailed former SIE agent Mesmer Carles Talledo charged in letters written from his prison cell that Huillca Tecse's murder, as well as a number of other high-profile bombings and massacres, actually had been perpetrated by the Colina death squad, whose operations are believed by critics of the Government to have been authorized and controlled by the National Intelligence Service. In November 1997, President Fujimori pardoned Mesmer Carles Talledo for having been convicted wrongly of terrorism. When the Congressional Human Rights Subcommittee inquiring into Carles Talledo's charges summoned him to testify before it, he denied ever having made any allegations against the Colina death squad, admitted no knowledge of the Colina group, could not remember ever having written the accusatory letters from his cell, and even disputed the fact that one of the members of the subcommittee had questioned him earlier in a videotaped interview. Coincidentally, Jose Luis Bazan, another former SIE agent, who had corroborated Carles Talledo's allegations to investigative reporter Jose Arrieta, also retracted his original story. Although Carles Talledo attempted to explain his behavior by claiming that he was undergoing treatment for psychosis and schizophrenia, critics of the Government believe that both Carles Talledo's and Bazan's change of heart was due to fear, blackmail, or the promise of some reward from the intelligence services. After refusing to subject Carles Talledo to a lie-detector test or to submit his letters to graphological analysis, the Human Rights Subcommittee decided in June to shelve its inquiry for lack of proof and let the Public Ministry pursue the investigation further. Arrieta fled the country due to fear that the information he had received from Bazan made him particularly vulnerable to possible attack by the Government's intelligence agents.

According to statistics gathered by the Legal Defense Institute, the Sendero Luminoso and MRTA terrorist groups carried out 454 violent attacks during the first 10 months of the year. During this period, the total number of deaths attributable to the internal conflict was 117. Of these, the security forces, including both military and police, suffered 27 fatalities while the members of the terrorist groups incurred 21 deaths. The civilian population, with 69 deaths, suffered the highest toll.

In March Sendero Luminoso terrorists killed Waudulco Munante in suburban Lima, dynamited his body, attached a note to his remains describing him as an "exploiter" of the people, and left Sendero Luminoso literature at the scene. In August a band of some 30 Sendero Luminoso terrorists dressed in military uniforms killed Celso Rodriguez Vargas, the mayor of Saposoa, in Huallaga province, San Martin department, after summarily sentencing him to death in a "people's trial." They also attacked the local National Police post, where they killed two other civilians.

b. Disappearance

There were no reports of disappearances alleged to have been politically motivated or carried out by security forces. At the end of its November fact-finding visit, the Inter-American Commission on Human Rights (IACHR) said in press statement that the IACHR had not received any recent complaints of disappearances.

In February President Fujimori signed into law legislation that specified a sentence of up to 15 years for perpetrators of forced disappearances. In a meeting with the Peruvian Association of Relatives of Kidnaped, Detained, and Disappeared Persons, Human Rights Ombudsman Santistevan highlighted the need to resolve the problems left over from the internal conflict, among them the 2,371 cases of persons who had disappeared and had never been found. He said his office would work to help the relatives in locating and identifying the bodies of those who had disappeared and seeking appropriate compensation from the State.

At year's end, compensation in the Neira Alegria case, dating from 1986, still had not been paid by the

Government, despite several rulings by the Inter-American Court of Human Rights. At its last session of the year, the Court ordered the Government to pay $245,000 in compensation to the family of Ernesto Rafael Castillo Paez, who was last seen in October 1990 being forcibly detained and driven away by police. In November 1997, the Inter-American Court of Human Rights ruled that the Government had violated Castillo Paezâs right to life, liberty, and personal integrity. The Court also had ordered the Government to punish those responsible and to return the victimâs remains to his family.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment of detainees by the security forces occur frequently. Torture most often takes place during the period immediately following arrest. Human rights groups report that the incidence of torture is high during police detention, in part because families are prohibited from visiting suspects while they are held incommunicado, and attorneys have only limited access to them (see Section 1.d.).

In February the President signed legislation that classifies torture as a crime whose perpetrators would be tried in the civilian jurisdiction and be subject to lengthy prison sentences. The new law brings before civilian courts torture suspects who belong to the security forces, a provision long resisted by the military. The statute specifies a sentence of 5 to 10 years for anyone convicted of torture. If the torture results in grave injury to the victim, the perpetrator would receive a 6- to 12-year sentence and, if the torture results in the death of the victim, the perpetrator would be sentenced for 8 to 20 years. Human rights groups had criticized the lack of a criminal classification of torture, particularly in cases involving members of the security forces, who were typically tried on charges of abuse of authority or physical assault in military courts, which tended to opt for lenient sentences. In June the United Nations Committee Against Torture called on the Government to reestablish the rule of law by restoring to the judiciary its independent character and to adopt measures guaranteeing compensation to the victims of torture.

Physical torture and brutal treatment of detainees by security force personnel are common occurrences, particularly in police cells operated by the National Counterterrorism Directorate (DINCOTE) and in detention facilities on military bases where terrorism and treason suspects normally are held. Psychological torture and abuse, which result from the harsh conditions in which detainees are held, are more characteristic of the prisons. The Legal Defense Institute reported that the United Nations Committee Against Torture had received 617 complaints of torture allegedly committed between 1993 and 1997.

Human rights monitors and other credible eyewitnesses continued to report that security forces routinely torture suspects at military bases and detention centers in some of the emergency zones, although the presence of International Committee of the Red Cross (ICRC) delegates in these zones is an important factor in minimizing human rights abuses against the civilian population there. In these zones, which cover 16 percent of the country's territory and 23 percent of its population, certain constitutional protections are suspended due to high levels of terrorist activity, even though at least some areas designated as emergency zones have not reported serious terrorist incidents for some time. There were frequent reports of beatings and other mistreatment of adolescents in army bases, in connection with the forcible conscription of youths for military service (see Section 1.f.).

In October a pretrial investigation began into charges of torture against a police officer who, if convicted, would be the first person to be sent to prison under the new torture statute promulgated in February. On September 1, officer Augusto Raymundo Gutierrez Rivero, of San Francisco district, Ayacucho department, allegedly brutally beat two illiterate farm hands in the district police station while interrogating them about charges by their boss that they had stolen about $600 (2,000 soles). As a result,

one of the men, Lucas Huaman Cruz, age 62, died 24 hours later. An autopsy revealed that Huaman's liver, kidneys, and spleen were completely crushed, his testicles were inflamed, one of his ribs was broken, his whole body was bruised, and there was internal bleeding in his abdomen. Prior to going to the police station, the two farm hands reportedly were forced to admit their guilt before a justice of the peace, and intimidated into putting their thumbprint on a statement in which they agreed to pay back the stolen money.

In September Pablo Waldir Cerron Gonzalez of Huamachuco sought help from a Trujillo human rights group following an alleged incident of police brutality. Cerron claimed that on September 4, policeman Elmer Perez Arnao entered his house without a judicial warrant, and after beating, kicking, and punching him, drove him with a colleague to a police station. At the station, police continued to beat Cerron, particularly on the back and stomach, and forcibly dipped his head in a barrel of water until he almost drowned. According to Cerron, the motive for the policemanâs assault was that Cerron owed about $6 (18 soles) to a local bar. Although the Trujillo human rights group had not reported any legal action in the case by yearâs end, it obtained a doctorâs statement confirming the severe contusions and internal injuries to Cerronâs stomach and back.

In addition to beatings, common methods of torture and other inhuman or degrading treatment included electric shock, water torture, asphyxiation, the hanging of victims by a rope attached to hands tied behind the back, and, in the case of female detainees, rape. Common forms of psychological torture included sleep deprivation and death threats against both the detainees and their families. Interrogators frequently blindfolded their victims during torture to prevent them from later identifying their abusers. The authorities rarely brought the perpetrators of torture to justice.

In February police officers reportedly beat Willy Llerena Macedo and Paolo Herrera Lesama. Llerena died as a result of this abuse (see Section 1.a.). The police also beat and injured student protesters in June (see Section 2.a.).

In April ousted Constitutional Tribunal judge and Dean of the Lima Bar Association Delia Revoredo claimed that she was being threatened by the National Intelligence Service for her outspoken criticism of unconstitutional and authoritarian actions taken by the Fujimori regime. She also maintained that the custom fraud charges brought against her businessman husband Jaime Mur for importing a used car on which he paid the taxes and duties were nothing more than a pretext for bringing added pressure to bear on her. As a result, they both sought and received political asylum in Costa Rica. Revoredo then presented a comprehensive complaint against the Government to the IACHR. In September Revoredo returned to the country, thereby risking revocation of her asylum. Soon after, the authorities withdrew the customs fraud charges against Mur.

There were significant developments during the year in the case of Leonor La Rosa, the SIE agent who was tortured by four of her fellow officers and superiors in 1997 after she allegedly revealed to the media a number of SIE undercover operations and refused to participate in one of them herself. After spending several months in jail for abuse of authority, two of the four officers who had tortured her were released quietly in February. In June the then-Prime Minister managed to have the military's disloyalty charges against La Rosa quashed. At year's end, the IACHR agreed to consider her case and ga