



RESPONSES TO INFORMATION REQUESTS (RIRs)

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Peru: Mistreatment by government authorities, particularly by the police and armed forces; recourse available to citizens to file a complaint and its effectiveness (2009-February 2012)

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1. Overview

According to a press release issued by Amnesty International (AI), [AI English version] "multiple deaths as a result of the use of firearms by police in law enforcement operations appear to have become an all too frequent occurrence in Peru" (AI 7 Apr. 2010). According to that document, [AI English version] "[d]ozens of people [were] killed by police firearms during police operations [in 2009]" (ibid.). In the first quarter of 2011, reportedly more than 1,800 complaints against police officers were filed (*Diario La Primera* 19 May 2011). This is due to [translation] "the lack of accountability for police and armed forces concerning the use of firearms in carrying out their duties;" that lack of accountability is set out in Decree 982, which was approved by the government in 2007 (ibid.; Peru 2007, art. 1).

At a press conference in Lima in May 2011, family members of victims of police violence, the Peruvian Team of Forensic Anthropology (Equipo Peruano de Antropología Forense, EPAF) and the National Human Rights Coordinating Committee (Coordinadora Nacional de Derechos Humanos, CNDDHH), whose statements were published by the Lima-based news agency Spacio Libre, stated that, in Peru, particularly in Lima and other cities in the country's interior, [translation] "there are repeated incidents of police violence" (*Agencia de Noticias Spacio Libre* 20 May 2011). According to a member of the CNDDHH, there are

[translation]

extremely serious cases in which a few delinquent PNP [Peruvian National Police] officers have tortured or subjected young persons and citizens to cruel and inhumane treatment that later resulted in serious injuries and even death (ibid.)

According to the data published by the Pro Human Rights Association (Asociación Pro Derechos Humanos, Aprodeh) in August 2010 in an article by Adital, a Brazilian news agency (Adital n.d.), [translation] "at least 47 civilians

have died [since the beginning of Mr. García's second presidential term] because of force used by the national police during social demonstrations" (Adital 18 Aug. 2010). According to Aprodeh, [translation] "the people killed had not all participated directly in the protests;" a 14-year-old died after being hit in the thorax with a projectile while on his way home for dinner (ibid.).

On the night of 9 May 2011, a 16 year-old, who was mistaken for a delinquent and who was on his way home with his friends, was killed by police officers who [translation] "were drinking alcohol in front of a shop" (Perú21.pe 10 May 2011). According to that article, published by Perú21.pe, a newspaper based in Lima, the police officers swore at the teenagers and then chased them down (ibid.). One of the teenagers was then [translation] "savagely beaten" and shot dead (ibid.). On 14 July 2010, a man was reportedly arrested in front of a branch of the Continental Bank in San Miguel by a group of seven police officers (ibid. 15 Oct. 2010). The officers mistook him for a thief and [translation] "brutalized him so violently" that he died (ibid.). In October 2010, a judge sent three of the seven police officers implicated in the murder to prison for torture and ordered them to pay 2,000 soles [C\$740.66 (XE 9 Mar. 2012)] [to the victim's family] (Perú21.pe 15 Oct. 2010). Another article published by Perú21.pe in July 2011 states that the government had promised to pay compensation to some victims' families, but none of them had received anything (ibid. 31 July 2011). An article published by the *Diario La Primera*, a newspaper in Lima, indicates that the police officers who had been jailed after the July 2010 murder had been released [translation] "a few weeks ago" (19 May 2011). Additional information on these incidents could not be found among the sources consulted by the Research Directorate.

An article from the Psychosocial Help Centre (Centro de atención psicosocial, CAPS), a civil association that, among other things, promotes mental health and human rights (CAPS n.d.), indicates that the police officers from the San Borja police station who were responsible for the death of a young man [killed in April 2011 (Perú21.pe 31 July 2011)] had been [translation] "temporarily laid off" while the case was under investigation (CAPS 20 May 2011). The article states that that situation [translation] "is another example of the impunity related to abuses committed by some authorities" (ibid.). Additional information on this subject could not be found among the sources consulted by the Research Directorate.

Cited in an article published by *El Comercio*, a newspaper based in Lima, the former minister of the interior explained that the police are losing the respect of citizens [translation] "because their abuses are not punished and the most senior officials 'remain silent' and prefer not to get involved, when they should be offering real support to the persons concerned" (6 Nov. 2011).

2. Abuse of Journalists by the Authorities

According to *Country Reports on Human Rights Practices for 2011*, published by the United States Department of State, there were reports of harassment of journalists and media outlets by municipal and regional authorities, even though the constitution of Peru provides for freedom of speech and of the press (U.S. 8 Apr. 2011, 13). According to that source, the National Journalists Association of Peru (Asociación nacional de periodistas del Perú) received 194 complaints of harassment between January and 15 December 2010, up from 180 cases for the same period in 2009 (ibid.). Of those 194 cases, "63 involved harassment by civilian authorities and 27 were committed by police and

military personnel" (ibid.). Most of the incidents reported involved threats, judicial and administrative pressure, including revocation of licenses, and physical violence (ibid.).

Cited by the Mexican news agency NOTIMEX, an article by *El Comercio* indicates that, in 2011, freedom of the press [translation] "was threatened by 'ridiculous judgments, the assassination of three journalists and proposed legislation aimed at restricting the dissemination of information'" (NOTIMEX 2 Jan. 2012). Additional information on the perpetration of these three killings could not be found among the sources consulted by the Research Directorate.

According to the data from a study conducted by the Press and Society Institute (Instituto de Prensa y Sociedad, IPYS) that were published in an Associated Press (AP) article, approximately 90 journalists were physically attacked between January and September 2011 (AP 2 Oct. 2011). In addition to these abuses committed by public servants, journalists also reported [translation] "civil servants' 'abusive use of state power,' 'verbal abuse' and 'abusive use of non-state power'" (ibid.). According to the article, most of those abuses occurred in Lima and in northern Peru, where there is a lot of mining (ibid.). Moreover, the study by the Press and Society Institute reported the killing of three journalists, of whom two were working in television and one in radio (ibid.). Those killings occurred in the north of the country (ibid.).

According to Human Rights Watch, [Human Rights Watch English version] "[i]ndividuals acting in support of, or working for, municipal authorities have assaulted, and even murdered, journalists who publicize abuses by local government officials" (Jan. 2011).

2.1 Demonstrations and Indigenous Populations

According to an article published by Amnesty International, a protest organized in June 2009 by indigenous people resulted in the deaths of 33 people, including 23 police officers and 10 civilians, and in more than 200 more being wounded (AI 4 June 2010). Demonstrators blocked a stretch of road for 50 days to protest [AI English version] "the adoption of laws relating to the exploitation of natural resources on lands traditionally occupied by them" without their being consulted (ibid.). The article states that [AI English version] "three Indigenous protestors remain in prison, over a dozen remain under arrest warrants," but "[n]o police officer or government official faces charges at present" (ibid.).

In a press release, Amnesty International states that, during that demonstration, 79 protestors were arrested and 21 were imprisoned (AI 9 July 2009). According to that source, some protestors [AI English version] "were reportedly tortured and ill-treated and prevented from accessing legal assistance and interpreters" (ibid.). An article published by Human Rights Watch indicates that an investigative commission appointed in July 2009 following the June 2009 demonstration blamed indigenous protestors and others for the deaths of 33 victims (Human Rights Watch Jan. 2011). The article also notes that no officials or police commanders were prosecuted for their handling of the protest (ibid.).

According to *Country Reports*, "[a]llegations of abuse most often arose immediately following an arrest, when families were prohibited from visiting suspects and when attorneys had limited access to detainees" (U.S. 8 Apr. 2011, 5). The same article states that, in some cases, "police and security forces allegedly threatened or harassed victims, their relatives, and witnesses to

prevent them from filing charges of human rights violations” (ibid.).

An article published by Amnesty International reports that five people died as a result of a police intervention during a demonstration in April 2010 by thousands of miners in the Arequipa region (AI 7 Apr. 2010). According to the article, the miners blocked a section of the Pan-American Highway in the Chala district (ibid.). Additional information on this subject could not be found among the sources consulted by the Research Directorate.

Another article by Amnesty International states that the Peruvian government issued a new law on 1 September 2010 that [AI English version] “allows the use of the military during civil unrest, including demonstrations” (AI 24 Sept. 2010). According to that article, there were demonstrations protesting an irrigation project in the southern towns of Espinar and Cuzco on 16 September (ibid.). In anticipation of the protests, the army was authorized to support the Espinar police (ibid.). AI reports that, “[a]ccording to media reports, violent clashes between protesters and the security forces in Espinar ... left one man dead and 44 injured” (ibid.).

3. Government Efforts to Respond to Mistreatment by Authorities

Two sources indicate that Alberto Fujimori, a former president of Peru, was convicted on 7 April 2009 (AI 7 Apr. 2009; BBC 7 Apr. 2009) at the end of a 15-month trial (ibid.). According to an AI observer, the former president was convicted [AI English version] “for human rights violations such as torture, kidnapping and enforced disappearances” (AI 7 Apr. 2009; BBC 7 Apr. 2009). According to an article published by the BBC, Mr. Fujimori was sentenced to 25 years in prison and said he would appeal the verdict (7 Apr. 2009). That article also states that he had been serving a six-year prison sentence since 2007 on separate charges of abuse of power (ibid.).

An article published by Human Rights Watch reports that the President of Peru issued four decrees on 1 September 2010 that

[Human Rights Watch English version]

adopt new rules of procedure for investigations by civilian criminal courts of human rights abuses committed by military and police personnel, modify the military justice system, and regulate the use of force by the armed forces (Human Rights Watch 10 Sept. 2010).

According to the Americas director at Human Rights Watch, [Human Rights Watch English version] “President García has created a legal framework that amounts to a blanket amnesty for the vast majority of abuses by state agents in Peru’s recent history” (ibid.). The Director also stated that [Human Rights Watch English version] “[t]his means that those responsible for killings, ‘disappearances,’ and torture will never have to pay the price for their crimes” (ibid.).

Moreover, according to an article published by Amnesty International, the president of Peru, Alan García, asked Congress on 13 September 2010 [AI English version] “to repeal a presidential decree [Decree 1097]” adopted at the beginning of September (AI 15 Sept. 2010). The promulgation of that decree would [AI English version] “grant amnesties to military personnel alleged to have

committed human rights violations during the country's 1980-2000 internal armed conflict" (ibid.). Although thousands of people were "killed, tortured, disappeared and raped at the hands of the military" during the internal conflict, [AI English version] "many of those who committed violations in the name of the state ... remain at large" (ibid.). According to Amnesty International, [AI English version] "hundreds of cases of human rights violations [are] still pending from that time" (ibid.).

According to a press release issued by the Inter-American Commission on Human Rights, Decree 1097 was repealed by Peru's congress on 14 September 2010 (OAS 17 Sept. 2010; Agencia Púlsar 15 Sept. 2010; Human Rights Watch Jan. 2011). Additional information about these decrees could not be found among the sources consulted by the Research Directorate.

4. Recourse Available to Victims to File Complaints

According to Attorney General's website, residents of Lima can file criminal complaints in person at the documents reception desk (Mesa Única de Partes), located at the Attorney General's headquarters in Lima (Peru n.d.a). The form can be completed by hand and consists of two parts (ibid.). The following information must be provided in the first part: the person's full name, the number of their identity card, their address and their profession (ibid.). A photocopy of the identity card must also be provided (ibid.). In the second part, the person must indicate [translation] "the right infringed upon and provide a clear, chronological account of the facts, including the place where the offence was committed and the person or organization that committed the offence" (ibid.). Also, a sample complaint letter is publicly accessible on the Attorney General's website (ibid.). The website states that a complaint can also be filed via Internet and that it would have the same value and weight as a complaint filed in person (ibid.). According to this website, a person can follow up on a complaint and follow the progress of the case with the help of the Information Management System for Prosecutorial Work (Sistema de Información de Apoyo al Trabajo Fiscal, SIATF) (ibid.). One can search for information by using the person's name, the type of offence and the place where it was committed (ibid.). According to the same source, the procedure for filing a complaint with the Attorney General is free and it is not necessary to retain legal counsel to do so (ibid.).

A complaint can also be filed with the Office of the Ombudsman (Defensoría del Pueblo), the website for which also offers a sample letter for making a complaint (Peru n.d.b). The letter must contain the following information:

1. all of the personal information of the person filing the complaint (first and last names, identity document, address and telephone number, if they have one)
2. the name of the authority or public agency concerned in the complaint
3. a brief and concrete description of the facts
4. the specific description of the reason for the complaint (ibid.)

According to website of the Office of the Ombudsman, a citizen who files a complaint does not need to retain a lawyer to do so (Peru n.d.c). The Ombudsman offers a free telephone hotline that citizens can call from 4:30 p.m. to 9:00 a.m. daily and on holidays (Peru n.d.d).

The Peruvian national police also offers citizens a telephone hotline that

they can call to make a complaint (Peru n.d.e). Two e-mail addresses and a fax number also appear on the website, but no additional information is available (ibid.).

5. Effectiveness of the Recourse Available to Victims

In a telephone interview with the Research Directorate, a project manager with the Peruvian Team of Forensic Anthropology stated that torture is one of the most frequent abuses of power committed by the police in Peru (EPAF 16 Feb. 2012). He indicated that investigations into these cases of abuse of power do not give any results because [translation] "it is merely police officers investigating other high-ranking police officers" (ibid.). He added that, for the last 10 years, [translation] "there have been several thousand cases of abuse of power that have not been resolved by the Attorney General or the judiciary" (ibid.). According to project manager, the two main causes for the delay are bureaucracy and the lack of qualified staff (ibid.). With regard to the bureaucracy, he explained that many documents are needed throughout the judicial process and that the time it takes to obtain them creates additional delays (ibid.). Moreover, the lack of qualified staff assigned to the investigations gives [translation] "results that are not very scientific" (ibid.). The project manager also added that many years can go by before a case is resolved: some cases dating back to 1984 are still open (ibid.). Corroborating information on his subject could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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