

PERU

REPUBLIC OF PERU

Head of state and government: Alejandro Toledo (replaced Valentín Paniagua in July)

Capital: Lima

Population: 26.1 million

Official languages: Spanish, Quechua, Aymara

Death penalty: abolitionist for ordinary crimes

2001 treaty ratifications/signatures: Optional Protocol to the UN Women's Convention; Rome Statute of the International Criminal Court; Inter-American Convention on Forced Disappearance of Persons

Scores of prisoners of conscience and possible prisoners of conscience remained imprisoned. Torture and ill-treatment remained a concern. A Truth and Reconciliation Commission to investigate human rights violations committed between 1980 and 2000 was established. People charged with treason under anti-terrorism legislation continued to be tried by military courts.

Background

President Alejandro Toledo took office on 28 July. Throughout his election campaign and in his inaugural speech he pledged to fight impunity and to protect and promote human rights. For the first time in recent Peruvian history, a civilian was appointed as Minister of Defence.

During his first months in office President Alejandro Toledo convened meetings with several political parties to reach a National Agreement on Governance. The agenda of the Agreement included constitutional reform, reform of the armed forces, security, decentralization and education. In addition, President Alejandro Toledo's government pledged free health care for everybody by the end of its mandate.

There were reports that the Shining Path armed opposition group continued to be active in the departments of Ayacucho, Junín, Huanuco and San Martín. In October there were reports that at least three people died when Shining Path members attacked an Ashaninka Indian community in the department of Junín. There were also reports that at least three Shining Path members had been detained that same month in the department of Huanuco.

Abuses by the former government

Vladimiro Montesinos, intelligence adviser to former president Alberto Fujimori, was detained in Venezuela in June and sent back to Peru where he faced charges of human rights violations, including aggravated injuries and homicide, money laundering and corruption. At the end of the year he was detained awaiting trial at the Callao Naval Base prison where leaders of the two armed opposition groups, Shining Path and the *Movimiento Revolucionario Túpac Amaru*, Túpac Amaru Revolutionary Movement, were also being held.

Scores of military officers who had been members of the cabinet, parliamentarians and other government officials and public servants during Alberto Fujimori's term of office were charged with fraud, corruption and money laundering. Some remained in prison awaiting trial; others were released on bail.

Alberto Fujimori, who had fled to Japan in November 2000, had his Japanese citizenship confirmed. In September, the Attorney General formally charged Alberto Fujimori with the murder of 15 people in 1991 at Barrios Altos, Lima, and with the forced disappearance and murder of nine students and a professor at La Cantuta University in Lima in 1992. In September, a judge of the Supreme Court of Justice ordered Alberto Fujimori's detention, alleging that there was strong evidence to suggest that Alberto Fujimori had full knowledge of the existence of the *Grupo Colina* "death squad" attached to Peru's Intelligence Service and believed to be responsible for these crimes. By the end of the year, Peru had not filed an extradition petition. However, the Japanese authorities insisted that no Japanese citizen could be extradited.

Impunity

In March the Inter-American Court of Human Rights ruled that the 1995 amnesty laws contravened the American Convention on Human Rights and therefore had no legal effect in all cases in which the rights enshrined in the Convention have been violated. In September the Inter-American Court of Human Rights stated that it was the duty of the Peruvian authorities to abide by this ruling and ensure that all human rights violations committed between 1980 and 1995 were investigated and those responsible brought to justice.

In June the transitional government of Valentín Paniagua issued a decree creating a Truth Commission to establish the circumstances surrounding human rights violations committed by the state and abuses committed by armed opposition groups between May 1980 and November 2000. The decree stated that once the commissioners had been appointed they would have 90 days to prepare the necessary formal rules by which their work would be guided. The government of Alejandro Toledo changed the title of the Commission to the Truth and Reconciliation Commission and expanded the number of commissioners to 12. By September all 12 commissioners had been appointed and at the end of October the Commission published its Rules on Organization and Functions which established that the Commission would have access to all official files in the hands of the judiciary, public ministries and the military justice system. However, there were concerns that the Commission would not be granted enough human and material resources to enable it to carry out an in-depth, effective, swift and country-wide examination of evidence related to cases of alleged violations submitted to it.

Mass graves

Dozens of mass graves were discovered during 2001 in the departments of Ancash, San Martín, Huancavelica, Apurímac, Ayacucho and Lima. Reports indicated that the mass graves

dated from 1980 to the mid-1990s. During this 15-year period, thousands of people "disappeared" and were extrajudicially executed by members of the security forces, and armed opposition groups committed grave human rights abuses. There were concerns from the Ombudsman and from domestic human rights organizations that the investigations into the hundreds of bodies found in these graves were at risk because the evidence had been interfered with, in part because the authorities had failed to properly protect the sites and provide them with adequate security.

Prisoners of conscience

At least 200 prisoners of conscience and possible prisoners of conscience, all charged under anti-terrorism legislation (see below), were released. However, at least a further 100 prisoners of conscience and possible prisoners of conscience charged with similar offences remained incarcerated. Most of the prisoners of conscience and possible prisoners of conscience who remained in jail had spent over five years in prison on false charges, a legacy of the Alberto Fujimori government. However, there were concerns that these cases had not been dealt with swiftly by the new administration.

Political prisoners and the anti-terrorism legislation

The anti-terrorism legislation which came into effect in 1992 permitting trial on charges of treason in military courts had not yet been brought into line with international standards for fair trials. Since 1992, hundreds of political prisoners had been convicted of treason under this legislation by military courts which were neither independent nor impartial. In a handful of cases those tried by military courts had their sentences annulled and their cases transferred to the civilian jurisdiction.

☞ In 2001, Lori Berenson, a US citizen, was sentenced by a civilian court to 20 years in prison under the anti-terrorism legislation. She had been sentenced to life imprisonment by a military court in 1996, but this sentence had been annulled in 2000 by the Supreme Council of Military Justice which referred her case to the civilian courts. An appeal against her conviction by the civilian court was pending at the end of 2001.

☞ The case of four Chileans – Jaime Castillo, Laurato Mellado, María Concepción Pincheira and Alejandro Astorga – sentenced by a military court in 1994, was transferred to the civilian courts. The Inter-American Court of Human Rights had ruled in 1999 that the four Chileans had received an unfair trial and should be retried. The trial was continuing at the end of 2001.

Torture and ill-treatment

There were reports of torture and ill-treatment, in at least one case resulting in death. There were serious concerns that complaints of torture and ill-treatment did not result in those responsible being brought to justice or the victims receiving compensation. Legislation criminalizing torture came into

effect in 1998. However, since then, torturers have been convicted under this legislation in only two cases. In addition, there were concerns that victims, their relatives and witnesses were intimidated and harassed; some complaints of torture or ill-treatment were dropped as a result.

☞ Jenard Lee Rivera San Roque was detained in May by police officers from the Cruz Blanca station, Huaura, Lima department, on suspicion of theft. He was taken home by nine officers, eight of them wearing plain clothes, where he was severely beaten with a chain and then taken to the backyard where he was forced to dig; the officers alleged that Jenard Lee Rivera had hidden the stolen goods in his patio. Jenard Lee Rivera was subsequently taken to the police station, where he was later found dead in his cell. According to the police, he had hanged himself. However, he had injuries on his face and body which were consistent with torture. His family lodged a complaint of torture on 22 June, since when the family has reported repeated harassment and intimidation. The case was under judicial investigation at the end of the year.

Prison conditions remained harsh and in some circumstances amounted to cruel, inhuman and degrading punishment. Challapalca prison remained operational despite calls from the Inter-American Commission on Human Rights that it be closed permanently. The prison, in Puno department, is more than 4,600 metres above sea level, and is extremely cold. The inaccessibility of the prison seriously limits the prisoners' right to maintain contact with the outside world, including relatives, lawyers and doctors. In September some 30 political prisoners who had taken control of a wing in the high-security prison of Yanamayo in Puno department were transferred to Challapalca prison. According to reports, the prisoners had refused to be transferred to other prisons for a few months while the Yanamayo prison was refurbished. By the end of year they had not been transferred back to Yanamayo or to other prisons.

Women

In July, the then Minister for Women's Affairs launched a National Plan against Violence against Women. According to reports, under the Plan women's refuges will be created and more resources will be allocated during the next five-year period for legal and psychological assistance for women filing complaints in police stations.

In September, women's organizations and human rights defenders urged the authorities to investigate allegations by the Health Minister that former President Alberto Fujimori was directly involved in planning the forced sterilization of women. During 1996 and 1997, the Latin American and Caribbean Committee for the Defence of Women's Rights studied the incidence of violence against women in the public health sector. They discovered evidence that the poorest women, as well as those who lived in rural areas, had been forcibly sterilized under false pretences, threats, intimidation and coercion. Some of these women reportedly died as a result of the medical intervention. The Committee reported

that health-care workers, in an effort to meet government imposed sterilization quotas, took advantage of poor rural women. Between 1998 and 2000 the Office of the Ombudsman received scores of complaints of women who had been forcibly sterilized.

AI country reports/ visits

Reports

- Peru/Japan: Alberto Fujimori ex-president of Peru must be brought to justice (AI Index: AMR 46/017/2001)
- Peru: Amnesty International's recommendations to the Truth Commission (AI Index: AMR 46/020/2001)

Visit

In April, AI delegates visited Peru. They were not received by the two presidential candidates, Alejandro Toledo and Alan Garcia. The delegation met with members of the transitional government of Valentín Paniagua.