

in member countries—released a report in which it confirmed allegations made by workers in two auto parts factories in Tamaulipas of chemical exposure and injuries from poor ergonomic conditions. The report found that the Mexican government had failed to fulfill its obligations under NAFTA's labor side accord to ensure safe working conditions. Specifically, the Mexican authorities had failed to conduct meaningful workplace inspections, to respond to workers who filed complaints with government agencies, and to provide proper compensation to workers for work-related injuries and illnesses. The NAO recommended ministerial consultations between the U.S and Mexican governments to discuss Mexico's failure to meet its obligations. If these consultations failed to resolve the matter, a panel could be convened to determine appropriate actions, including economic sanctions against the Mexican government. Under the labor side accord, economic sanctions could only be applied if a government was found to have persistently failed to enforce its domestic labor laws in three areas: occupational safety and health, child labor, and minimum wage.

Most of the other twenty-three cases submitted since NAFTA went into effect involved primarily the right to freedom of association, which can lead, at most, to an NAO request for intergovernmental consultation. In the absence of a more effective enforcement mechanism, the labor side accord had a limited impact on workers rights in Mexico.

Relevant Human Rights Watch Reports:

Military Injustice: Mexico's Failure to Punish Army Abuses, 12/01

Trading Away Rights: The Unfulfilled Promise of NAFTA's Labor Side Agreement, 4/01

PERU

HUMAN RIGHTS DEVELOPMENTS

In a series of dramatic developments in late 2000, the repressive and discredited government of President Alberto Fujimori disintegrated, generating new hope for democracy and human rights. Although Peru was faced with the legacy of a decade of authoritarian rule, both the interim administration of Valentín Paniagua and the new government of President Alejandro Toledo took important steps in 2001 to strengthen democratic institutions and the rule of law, while starting to address long neglected human rights problems.

In November 2000, after Fujimori had gained a third consecutive term of office in widely discredited elections held the previous May, his government collapsed in the midst of a major political corruption scandal. Fujimori fled to Japan, his parents' native country, from where he submitted his resignation by fax. The Peruvian

Congress declared Fujimori morally unfit for office and appointed its president, Valentín Paniagua, to head a caretaker government. Paniagua's eight-month transitional government achieved notable advances for human rights. It leveled the playing field for new presidential elections, held in April 2001. A special prosecutor, whom Fujimori had appointed in his final month in office, began to unravel a vast web of corruption spun by Fujimori's former advisor Vladimiro Montesinos. Paniagua formed a truth commission to investigate responsibility for the systematic human rights violations and guerrilla abuses committed during Peru's twenty-year counter-insurgency war, beginning in 1980. His government also took steps to improve prison conditions, and speeded up the release of people falsely convicted or charged with crimes of terrorism by Fujimori's widely condemned anti-terrorism courts.

On July 28, 2001, President Alejandro Toledo was sworn in after narrowly defeating Alán García's bid for a second mandate in a run-off vote in June (García had been president from 1985-1990). Toledo, who had led the opposition against Fujimori for two years, said that his government was committed to fully reestablishing human rights, accountability, and the rule of law, and he appointed former members of Peru's nongovernmental human rights community to his cabinet.

Both the interim administration and the Toledo government took important steps to bring members of the Fujimori government to justice for human rights violations and corruption. On June 23, Vladimiro Montesinos, the disgraced former *de facto* chief of the National Intelligence Service (Servicio de Inteligencia Nacional, SIN) and virtual co-ruler of Peru with President Fujimori, was arrested in Caracas, Venezuela, after eight months on the run. After an unsuccessful attempt to obtain asylum in Panama in September 2000, Montesinos had returned clandestinely to Peru in October, evaded capture, and escaped by yacht to Venezuela. Venezuela deported Montesinos to Peru, where he was imprisoned pending trial on charges of corruption and human rights violations.

In May, special prosecutor José Ugaz reported that seventy-four former government officials, judges, legislators and businessmen were being held on a wide range of corruption charges, and that U.S. \$153 million held in foreign bank accounts by Montesinos and his cronies had been frozen. By November, more than 1,000 people were under investigation for corruption, according to a senior judicial official. Many were exposed by the discovery and exhibition in Congress of secret videos filmed by Montesinos at the SIN's Lima headquarters, showing them accepting bribes from the former intelligence chief. Those detained included former army commanders Gen. Nicolás de Bari Hermoza Ríos and Gen. José Villanueva Ruesta, during whose command the army had come under Montesinos' indirect control. Altogether, more than thirty senior military officers were accused of corruption, drug trafficking, wiretapping of government opponents, extrajudicial executions, and other crimes. Nineteen of them were in detention or under house arrest in October 2001.

On August 27, Congress voted unanimously to remove Fujimori's immunity from prosecution as head of state. On September 5, Attorney General Nelly Calderón filed charges against him of murder, causing grave injuries, and "disappearances." Fujimori was accused of being co-author, along with Montesinos, of the

extrajudicial execution in 1991 of fifteen people, including an eight-year-old child, at a fund-raising party in a poor tenement in Lima's Barrios Altos district, and the "disappearance" in 1992 of nine students and a professor from La Cantuta University. Both crimes were attributed to the Colina Group, a paramilitary death squad answering to Montesinos as *de facto* head of the SIN, for which Fujimori exercised ultimate responsibility. By June, nineteen alleged Colina Group members were already facing charges for the Barrios Altos massacre, including several who had been released in 1995 under two sweeping amnesty laws approved by the Fujimori-controlled Congress. On September 13, Supreme Court justice José Luis Lecaros issued an international warrant to Interpol for Fujimori's arrest, pending the submission to Japan of a formal extradition request. The Japanese government, which had swiftly recognized Fujimori's claim to Japanese nationality, stated repeatedly that its laws prohibited the extradition of its citizens.

The truth commission established by interim President Paniagua in June got off to a slow start due to initial disagreements over its composition. Human rights groups criticized the Paniagua cabinet's decision to include a former pro-Fujimori congresswoman, Beatriz Alva Hart, in the seven-person commission, headed by the rector of the Catholic University, Salomón Lerner. After taking office, President Toledo finally confirmed Hart in her post, and he himself appointed five extra members, including a retired army general. The commission was mandated to investigate violations of the collective rights of Peru's Andean and native communities as well as violations of individual rights such as extrajudicial executions, torture, and "disappearances." It was also empowered to hold public hearings, and to name those it found responsible for abuses and human rights violations. Although government officials were required by law to provide support to and cooperate with the commission, it was not given powers to subpoena them to testify. The commission had plans to establish regional offices to collect information in the rural zones most affected by the armed conflict.

Abuses by guerrilla groups continued. Although states of emergency were no longer in force in any part of the country, isolated pockets of armed guerrilla activity were still reported. In the Alta Huallaga region in Huánuco and San Martín departments, Shining Path (Sendero Luminoso) guerrillas murdered fourteen civilian non-combatants in separate incidents in March. The victims were alleged to have been former guerrillas or sympathizers who their captors accused of collaborating with the government. Remnants of the Shining Path also continued to operate, reportedly in alliance with cocaine traffickers, in the jungle regions of Junín and Ucayali. Concerns continued that Asháninka Indians were being forcibly recruited and forced to work for the guerrillas. On August 7, four policemen on a mission to intercept a Shining Path column were killed after being ambushed by guerrillas in the jungle near Satipo. The Shining Path was reported to have kidnapped fifteen Asháninkas, whose names were not given for fear of reprisals. Incidents like these confronted the new government with the challenge of mounting an effective response to terrorism while avoiding the human rights abuses of earlier years.

There was steady progress in securing the release of scores of prisoners falsely accused or unjustly convicted of terrorism under the anti-terrorism laws intro-

duced by the Fujimori government in 1992. Between November 2000 and mid-July, the government issued 144 pardons and commuted fifty-two sentences on the recommendations of an ad-hoc commission appointed by Fujimori to vet petitions for a presidential pardon. Nongovernmental human rights groups, which had themselves forwarded applications for pardons, however, urged the government to approve releases more quickly. By early August, more than one hundred cases presented by human rights organizations and the churches still awaited government approval. The situation of hundreds of peasants still affected by terrorism arrest warrants dating back for years was somewhat eased by a law passed in June permitting judges to suspend the investigation, or to allow prisoners to testify voluntarily without being detained.

By October, the government had not announced any plans to review the sentences and trials of more than 2,000 prisoners who had been convicted of terrorism or treason by anti-terrorism courts. These courts' procedures systematically violated due process and had been internationally condemned. In May, however, the Supreme Council of Military Justice, Peru's highest military court, announced that four Chilean members of the Tupac Amaru Revolutionary Movement (Movimiento Revolucionario Tupac Amaru, MRTA), who had been sentenced to life imprisonment for treason in 1994 by a "faceless" military court, would receive a new trial in a civilian court. The decision promised to put into effect a 1999 ruling by the Inter-American Court of Human Rights, which Fujimori had cited as a pretext for withdrawing Peru from the court's jurisdiction. In June, a civilian anti-terrorism court presided over by Judge Marcos Ibazeta re-tried U.S. citizen Lori Berenson, who had been sentenced in 1996 by a faceless military court to life imprisonment for treason. Berenson had been found guilty of participating in a foiled plot to take members of Congress hostage in order to obtain the release of MRTA prisoners. After a three-month trial in open court, at which her defense counsel was permitted to cross-examine witnesses, Berenson received a twenty-year sentence for collaborating with the group.

Some positive measures were taken to tackle Peru's inhumane prison conditions, another legacy of years of neglect of basic human rights. Overcrowding was severe, with more than 27,000 prisoners occupying facilities built for a maximum of 20,000. Long sentences and the habit of incarcerating offenders before trial contributed to the problem. The problem of overcrowding was compounded by insufficient food, poor hygiene, and inadequate medical services. More than half the prisons had seriously inadequate infrastructure and facilities. At the beginning of the year, two-thirds of the prisons were controlled by the police rather than by trained prison officers. Extortion and violence by guards was common.

Inmates convicted on serious charges, such as drug trafficking and terrorism, were not entitled to any remission for good conduct. Moreover, for years prisoners convicted of acts of terrorism had been kept locked up all day with minimal access to recreation areas and rights to family visits. In March, the Ministry of Justice introduced new rules allowing prisoners out of their cells between 6:00 am and 6:00 pm, more frequent and longer visits by relatives, and access to defense lawyers in private. Regulations were expected to enter force in September 2001 establishing this as a uniform regime for all inmates. Despite these advances, no action was taken to close down the isolated high-security prison of Challapalca, located at

14,000 feet in the Andes near Puno, whose oxygen-thin air and freezing temperatures made it a serious health hazard. Although some inmates were moved to other facilities, fifty continued to be held there.

Press freedom benefited almost immediately from the collapse of the Fujimori government and the dismantling of the SIN in September 2000. In December 2000, for example, Baruch Ivcher, owner of Channel 2-Frecuencia Latina, who was stripped of his Peruvian nationality in 1997 and deprived of his controlling shares in the station because of its reporting of abuses committed by the SIN, returned from exile and a court later restored his ownership of the company. Several media owners were facing charges, however, for accepting bribes from Montesinos in exchange for favoring the Fujimori government.

In the provinces, journalists continued to face threats and legal action in retaliation for critical coverage of local authorities and politicians. Local radio was particularly vulnerable. Of thirty complaints monitored from January to July by the Press and Society Institute (Instituto Prensa y Sociedad, IPYS), a non-governmental press freedom advocacy group, twenty-eight were received from outside Lima, and twenty-two affected radio stations. In February, the Human Rights Ombudsman presented to Congress a bill to repeal article 374 of the Criminal Code that penalizes defamation of public authorities. The bill was still under consideration at the time of writing.

DEFENDING HUMAN RIGHTS

Both the Paniagua and Toledo governments expressed support and appreciation for the work of human rights monitors. Human rights organizations made a vital contribution to the public debate in the transitional months before Toledo's election. Both governments appointed human rights advocates with long experience in nongovernmental organizations to their cabinets. The organizations grouped together in the widely respected National Human Rights Coordinating Group (Coordinadora Nacional de Derechos Humanos, CNDDHH) successfully advocated that a truth commission be appointed before the elected president took office in July, and it obtained the agreement of both candidates to support the initiative. In September, President Toledo appointed CNDDHH's executive director, Sofia Macher, as a member of the commission.

The Human Rights Ombudsman's office published in November 2000 a comprehensive report on "disappearances" between 1980 and 1996. Basing its data mainly on files from the Attorney General's office, the report documented 4,022 cases of "disappearance" in which the fate of the victims was still unknown. In an update published in November 2001, the ombudsman put the total number at 6,362, including cases recorded by human rights groups but not officially reported.

In November 2000, the offices of two CNDDHH member organizations, Peace and Hope (Paz y Esperanza) and the Human Rights Commission (Comisión de Derechos Humanos, COMISEDH), suffered break-ins and the theft of data storage equipment. The burglaries occurred soon after the CNDDHH filed a criminal complaint against those responsible for the Barrios Altos and La Cantuta massacres.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

The Human Rights Committee (HRC) criticized abuses in the administration of justice. In its concluding observations on Peru's report under article 40 of the International Covenant on Civil and Political Rights, published in November 2000, the HRC called for the government to "review and repeal the 1995 amnesty laws, which help create an atmosphere of impunity." The committee also recommended that Peru "establish an effective mechanism for the review of all sentences imposed by the military courts for the offences of terrorism and treason," and expressed concern about prison conditions.

Organization of American States (OAS)

The human rights bodies of the Organization of American States (OAS) helped redress some of the abuses of the Fujimori era and promote justice for the victims, while Peru demonstrated a new commitment to comply with the OAS's recommendations. On January 18, Peru's Congress overturned a July 1999 resolution not to recognize the jurisdiction of the Inter-American Court of Human Rights, a resolution that the court had declared to be inadmissible. In February, the court ordered Peru to facilitate the return to Baruch Ivcher of his majority shares in the Channel 2-Frecuencia Latina television network, and pay him damages and compensation totaling U.S. \$70,000. In compliance with recommendations made by the Inter-American Commission on Human Rights in December 1998, Peru reinstated three members of the Constitutional Court who had been dismissed in 1997 for opposing Fujimori's re-election plans.

In a landmark decision in March, the Inter-American Court ruled unanimously that the application of the 1995 amnesty laws to the Barrios Altos case was incompatible with the American Convention on Human Rights and therefore without legal effect. It urged Peru to hold accountable those responsible and to compensate the victims. Within days of the decision, Peruvian police detained several alleged former members of the Colina death squad on murder charges, including two former generals. In September, the Inter-American Court responded to a request by the Peruvian government for clarification of the scope of the Barrios Altos decision, by affirming that application of the amnesty laws to any other case of human rights violation would also violate the American Convention. In October, the Supreme Council of Military Justice annulled its 1995 decision applying the amnesty laws to the Barrios Altos and La Cantuta cases.

European Union

E.U. financial assistance to Peru was suspended in 1999-2000 under the Fujimori government. In 2001, aid programs were reestablished, primarily focusing on institutional and judicial reform, and the fight against poverty.

United States

Amid scandalous revelations about the criminal activities of Vladimiro Montesinos, the U.S. press published details about Montesinos' long association with the U.S. Central Intelligence Agency (CIA) and his pivotal role in U.S. anti-drug efforts in Peru. In September 2000, the *Washington Post* reported that the CIA defended Montesinos in inter-agency reviews and dismissed as "unproven and irrelevant" reports that he had "orchestrated" human rights violations in the early 1990s. The United States maintained its association with Montesinos well into 2000, according to the newspaper, until evidence emerged that Fujimori's advisor had been involved in the illegal sale of assault rifles to left-wing guerrillas in Colombia. In June, the National Security Archive (NSA), a U.S. non-governmental freedom of information advocacy group, published documents declassified under the Freedom of Information Act about the U.S.'s early links with Montesinos in the 1970s. Other documents showed that the U.S. received reports of Montesinos' growing influence over Fujimori as early as 1990. Apparently following a top-level decision finally to break off ties with Montesinos, the Federal Bureau of Investigation gave Peruvian police vital assistance in apprehending him in Caracas in June.

In July, Human Rights Watch wrote to President George W. Bush to express concern about the shooting down of a plane during a joint U.S.-Peruvian drug surveillance operation on April 20, causing the deaths of Veronica Bowers, a missionary, and her infant daughter. Human Rights Watch urged that surveillance pilots be issued with clear instructions not to use lethal force in the absence of an imminent threat of violence. A joint U.S.-Peruvian report released by the State Department in August put the blame for the tragedy on lax procedures and the failure of the Peruvian pilot to give proper warning.

VENEZUELA

As in the past, the most pressing human rights issues facing the government of President Hugo Chávez involved crime and the criminal justice system. High levels of violent crime placed great stress on public institutions, whose level of professionalism was often low. Corruption and violence in the police forces and the prison system remained endemic, while the judiciary—under-funded, inefficient, and often corrupt—was incapable of dispensing justice in an efficient manner.

The extrajudicial execution of criminal suspects by police continued to be a major human rights problem. A disturbing recent development was the emergence in some states of organized death squads, acting with impunity and even publishing their hit lists in local newspapers.

President Chávez's frequent outbursts against his political and media critics,