

PERU

Peru is a multiparty republic with a population estimated at 28.2 million. In 2006 Alan Garcia of the Popular Revolutionary Party Alliance (APRA) won the presidency in elections that were generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported: alleged unlawful killings by government forces and disappearance of persons in an area under military control; abuse of detainees and inmates by police and prison security forces; harsh prison conditions; lengthy pretrial detention and inordinate trial delays; attacks on the media by local authorities; corruption; harassment of some civil society groups; violence and discrimination against women; violence against children, including sexual abuse; trafficking in persons; discrimination against indigenous communities, ethnic minorities, and gay and lesbian persons; failure to apply or enforce labor laws; and child labor in the informal sector.

The terrorist organization the Shining Path (Sendero Luminoso), linked to narcotics trafficking, was responsible for killings and other human rights abuses.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings. However, on September 14, during an antiterrorist operation in the Valle de Apurimac y Ene region (VRAE) (special emergency zone), according to credible sources, security forces reportedly killed Jesus Felix Canchanya Limache, Maximiliano Pichardo, Fernandez Alejandro Pichardo Fernandez, and Rosa Chavez Sihuincha. On October 3, officials from the Public Ministry, ombudsman, police, and armed forces found the bodies of Canchanya Limache, Maximiliano and Alejandro Pichardo Fernandez, and Chavez Sihuincha. By year's end the whereabouts of minors Moises Pichardo Pariona and Rosa Linda Pichardo Chavez, who also disappeared during the government operation, remained unknown. The government stated that it had not committed any human rights violations in the VRAE and that the military was operating there to eradicate narcoterrorism. On October 22, the Office of the Human Rights Ombudsman requested that a congressional commission investigate military actions in the VRAE. The First Penal Prosecutor of Ayacucho began a preliminary investigation that continued at year's end.

On April 10, Hugo Martinez Mamani of the Office of the Huamanga Provincial Prosecutor filed a criminal complaint alleging homicide against police officer Carlos

Alberto Rodriguez Huamani. During the investigation, Rodriguez Huamani acknowledged firing at Emiliano Garcia Mendoza and Ruben Pariona Camposano, who participated in a February 19 agrarian strike in Ayacucho. The investigation continued at year's end.

On April 16, a court sentenced Juan Hurtado Vasquez to 27 years' imprisonment and Nazario Coronel Ramirez to 19 years' imprisonment for their roles in the March 2007 killing of journalist Miguel Perez Julca. The court also ordered Hurtado Vasquez and Coronel Ramirez to pay 35,000 soles (\$12,500) in restitution to the victims' families.

There were no developments, and none were expected, regarding the September 2007 Public Ministry investigation of 10 police officers for the death of one inmate and the beating of another at a police station in Jesus Maria, the 2006 security force killings of Alberto Saravia and Peter Vasquez Chavez, and the January 2007 penal court proceedings against four military officers in relation to the 2004 torture and death of Corporal Edgar Ledesma Lopez.

The Third Special Penal Superior Court continued oral proceedings against former intelligence service director Vladimiro Montesinos, former armed services chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio Montesinos for extrajudicial killings in the 1997 rescue of 74 hostages at the Japanese ambassador's residence.

On April 8, the First Anticorruption Court sentenced Julio Salazar Monroe, former head of the National Intelligence Service, to 35 years' imprisonment, and former members of the Grupo Colina detachment Jose Gonzales Alarcon, Fernando Lecca Esquen, and Orlando Vera Navarrete each to 15 years' imprisonment for aggravated homicide, aggravated kidnapping, and forced disappearance in 1992 of nine students and a professor at La Cantuta University.

By year's end former president Alberto Fujimori remained in detention pursuant to a December 2007 sentence to six years' imprisonment for ordering an illegal search. Fujimori also remained on trial on charges that carried prison terms of up to 10 years for corruption and 30 years for human rights violations. The most serious charges concerned Fujimori's involvement in the 1991 Barrios Altos and 1992 La Cantuta killings.

On August 15, the Second Supranational Court requested that charges of aggravated homicide of Juan Bardales and the deaths of 33 other persons during a prison clash in 1992 be included in the previous extradition request of former president Fujimori from Chile.

On September 8, the First Criminal Superior National Court began investigating whether there was enough evidence to charge Ollanta Humala with participating in disappearances, torture, and murders in 1992 at the Madre Mia military base. At year's end there was no further information regarding developments in this case.

On December 15, the Constitutional Tribunal (CT) upheld a lower court decision that the statute of limitations had expired regarding the investigation of the 1986 El Fronton prison massacre. The lower court did not include as a subject of the investigation President Alan Garcia, who was president in 1986. Civil society groups asserted that the CT's decision did not respect international norms that human rights violations have no statute of limitations.

On August 15, Juan Manuel Rivera-Rondon, implicated in the 1985 massacre of 69 villagers during a military raid in the village of Accomarca, was deported to Peru on charges of aggravated homicide. Rivera-Rondon remained in custody awaiting trial in the Third Supraprovincial Court. However, Telmo Ricardo Hurtado Hurtado, also implicated in the massacre, remained in a foreign country pending the outcome of extradition proceedings. In October the nongovernmental organization (NGO) Peruvian Forensic Anthropology Team (EPAF) identified the remains of six victims of the killings at Accomarca.

Between May and July EPAF exhumed the remains of more than 100 men, women, and children reportedly massacred in 1984 by the military and buried in a clandestine mass grave in the village of Putis in the department of Ayacucho. Through October EPAF and family members of the victims identified clothing belonging to 19 of the victims.

At year's end the Public Ministry continued investigating a mass grave of unknown date, discovered in 2006 in Cusco. The grave contained the remains of 80 bodies. The Institute of Legal Medicine, a government agency, identified 10 of the exhumed bodies.

During the year narcotics traffickers and members of the Shining Path terrorist organization killed 10 police officers, 17 soldiers, and four civilians. Between January and December the Shining Path conducted 64 terrorist acts in remote coca-growing areas.

Societal violence outside Lima remained a serious problem, often due to a lack of police presence.

b. Disappearance

In September government forces operating in the VRAE state of emergency zone were responsible for the disappearances of several persons (see section 1.a.).

There were no developments, and none were expected, regarding the Office of the Public Defender's continued investigations into approximately 1,000 disappearance cases from 1980 to 2000, some of which were considered politically motivated.

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

The law prohibits such practices. Although there were no allegations of systematic torture, there were reports that security officials used excessive force. The authorities seldom punished those who committed abuses.

Allegations of abuse most often arose immediately following an arrest, when families were prohibited from visiting suspects and when attorneys had limited access to detainees. 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. According to the NGO Human Rights Commission (COMISEDH), some victims were reluctant to pursue judicial proceedings for fear that abusers would be released without being charged. COMISEDH reported 17 cases of aggravated torture by security forces.

On February 25, three police officers reportedly raped 26-year-old Luis Alberto Rojas Marin in the police station at Casa Grande, allegedly because they thought he was a homosexual. On April 11, a judge ordered that the three officers be detained in police custody. NGOs asserted that this was the first time the government had arrested persons based on hate crimes and human rights abuses related to sexual orientation. However, due to protest marches organized by family members, magistrates of the La Libertad Regional Judicial Court freed the three officers. Due to what it determined to be insufficient evidence during the preliminary investigation, the Public Ministry closed the case. Rojas' lawyer appealed the decision, and the outcome was pending at year's end.

There were no further developments, and none were expected, regarding the Supraprovincial Court of Lima's review in 2007 of the alleged police beating in 2005 of Wilmer Cubas Carranza.

There was no further information, and none was expected, regarding the Public Defender's Office investigation into allegations that guards beat prisoners after a 2006 riot at La Asuncion Prison in Junin.

By year's end the Fifth Prosecutor's Office of Callao continued its investigation of the alleged beating in 2006 of inmate Samuel David Flores Valdivia by Sarita Colonia Prison Director Manuel Vazquez.

Prison and Detention Center Conditions

Prison conditions were harsh. The National Penitentiary Institute (INPE) operated 56 of the country's 85 prisons, and the National Police (PNP) has jurisdiction over the rest. Prisoners with money had access to cellular telephones, illicit drugs, and meals prepared outside the prison. Conditions were poor to extremely harsh in facilities for prisoners who lacked funds. Overcrowding, poor sanitation, and inadequate nutrition

and health care were serious problems. Inmates had intermittent access to running water, bathing facilities were inadequate, kitchen facilities were unhygienic, and prisoners slept in hallways and common areas for lack of cell space. Prisoners had access to illegal drugs, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels. Authorities at the San Juan de Lurigancho men's prison held 10,230 prisoners in a facility designed for 1,500. On December 10, INPE opened a new women's prison, Tarapaca, which reduced substantially overcrowding at the Santa Monica prison in Chorrillos.

Conditions were especially harsh in maximum-security facilities located at high altitudes. The high-security prison in the jungle area of Iquitos was in poor condition with the physical infrastructure of the building near collapse. The prison facility in Maynas was in such disrepair that rubble prevented guards from reaching some watchtowers.

Prison guards and fellow inmates abused prisoners. There were deaths of inmates in prisons, most attributed to fellow inmates, but some were due to negligence by guards. Guards received little or no training or supervision. Corruption was a serious problem, and some guards cooperated with criminal bosses who oversaw the smuggling of guns and drugs into prisons.

There were no developments regarding any investigation of the October 2007 killing of one inmate by several other prisoners during a gun battle with guards at Lima's Miguel Castro Castro Prison.

Authorities had sentenced only 15,000 of the 45,000 persons held in the country's detention facilities. Authorities held detainees temporarily in pretrial detention centers located at police stations, judiciary buildings, and the Ministry of Justice. In most cases authorities held pretrial detainees with convicted prisoners.

The AntiCorruption Court completed its investigation of Jose Gamboa Mendoza, director of the Piedras Gordas Penitentiary, who was taped negotiating bribes in 2006. Gamboa remained in prison awaiting trial at year's end.

Anticorruption Judge Rafael Vela Barba ordered Cesar Orozco Barrios, director of Piedras Gordas Penitentiary, along with three other civil employees, to remain in the country while authorities investigated charges that they accepted money from inmates.

The government permitted prison visits by independent human rights observers. The International Committee of the Red Cross made 54 unannounced visits to inmates in 30 prisons and detention centers.

d. Arbitrary Arrest or Detention

The constitution, criminal code, and antiterrorist statutes prohibit arbitrary arrest and detention. The law permits police to detain persons for investigative purposes. The law requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. Only judges may authorize detentions, including in corruption cases. Authorities are required to arraign arrested persons within 24 hours, except in cases of terrorism, drug trafficking, or espionage, in which arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours. In remote areas arraignment must take place as soon as practicable.

Role of the Police and Security Apparatus

The PNP, with a force of approximately 91,000, was responsible for all areas of law enforcement and internal security and functioned under the authority of the Ministry of the Interior. The PNP's personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a mixture of directorates that specialize in specific areas (such as kidnapping, counternarcotics, and counterterrorism) and local police units. Each department, province, city, and town has a PNP presence.

The armed forces, with approximately 132,000 personnel, are responsible under the authority of the Defense Ministry for external security but also have limited domestic security responsibilities.

Observers noted that the PNP was undermanned and suffered from a lack of training and professionalism. Corruption and impunity remained problems. There were also several reports of military corruption, impunity, and resistance to provide information on its personnel under investigation for human rights abuses committed during the country's internal armed conflict.

The PNP is charged with witness protection but lacked resources to provide training for officers, conceal identities, or offer logistical support to witnesses. Officers assigned to witness protection cases often brought witnesses into their homes to live.

Arrest and Detention

The law requires police to file a report with the Public Ministry within 24 hours after an arrest. The Public Ministry, in turn, must issue its own assessment of the legality of the police action in the arrest. Judges issue warrants based on sufficient evidence. The law also provides for the right to prompt judicial action. The time between an arrest and an appearance before a judge averaged 20 hours. Judges have 24 hours to decide whether to release a suspect or continue detention. A functioning bail system exists, but many poor defendants lacked the means to post bail. By law detainees are allowed access to a lawyer and to family members. The Ministry of Justice provided indigent persons with access to an attorney at no cost. Persons detained for espionage, drug trafficking, corruption, and terrorism may be held for up to 30 days.

Police may detain suspected terrorists incommunicado for 10 days. The Public Ministry oversees the detention centers, which the ombudsman also monitored.

Lengthy pretrial detention was a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System, only 32 percent of the persons in prison had been sentenced, with 68 percent awaiting trial, the majority for between one and two years. If prisoners are held more than 18 months without being sentenced--36 months in complex cases--the law requires that they be released.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected this provision in practice. NGOs complained that the judiciary was politicized.

The three-tier court structure consists of lower courts, superior courts, and a Supreme Court of Justice of 30 judges. Supranational courts execute judgments made by courts, such as the Inter-American Court of Human Rights, outside the domestic judicial system. A seven-person constitutional tribunal operates independently of the judicial branch. The independent and autonomous National Judicial Council (CNM) appoints, disciplines, and evaluates all judges and prosecutors who have served in their position for at least seven years (excluding those chosen by popular election). Lack of certification from the CNM permanently disqualifies a judge or prosecutor.

The military justice system provided the same rights as civilian courts. Under the military justice system, judges in the lower courts must pass judgment and sentence within 10 days of the opening of trial. Defendants can appeal convictions to the Superior Military Council, which has 10 days to issue a decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue a ruling within five days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

The Terrorism Court, in accordance with decisions of both the Inter-American Court of Human Rights and the Constitutional Tribunal, continued to retry defendants previously convicted by military tribunals. The courts found 10 persons guilty and absolved 95 persons in terrorism cases. Approximately 232 terrorism cases remained pending at year's end.

The National Penal Court continued investigating cases involving allegations of human rights abuses by security forces during the war against the Shining Path in the 1980s and 1990s. The court still had some cases referred by the Truth and Reconciliation Commission, but only a few involved active investigations.

Trial Procedures

The justice system is based on the Napoleonic Code. The prosecutor investigates cases and submits an opinion to a first instance judge, who determines if sufficient evidence exists to open legal proceedings. The judge conducts an investigation, evaluates facts, determines guilt or innocence, and issues a sentence. All defendants are presumed innocent; they have the right to be present at trial, to call witnesses, and to be represented by counsel, although in practice the public defender system often failed to provide indigent defendants with qualified attorneys. Although citizens have the right to be tried in their own language, language services for non-Spanish-speakers were sometimes unavailable. Defendants may appeal verdicts to the superior court and then to the Supreme Court of Justice. The Constitutional Court decides cases involving such issues as habeas corpus.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The country has an independent judiciary that enables citizens to bring lawsuits for violations of their rights; however, court cases often dragged on for years, making it difficult for some plaintiffs, particularly those of limited economic means, to pursue legal redress. Press reports, NGOs, and others alleged that judges frequently were subject to corruption or influence by powerful outside actors.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions. There were reports, however, that authorities sometimes entered private dwellings before obtaining a warrant.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press. Although the government generally respected these rights in practice, some civil society, media, and political opposition groups expressed concern about whether citizens could criticize the government. There was widespread harassment of the press by provincial authorities, the police, and private groups, such as coca growers. Harassment took the form of attacks on journalists, illegal arrests, and threats.

The independent media were active and expressed a variety of views. All media outlets were privately owned except for one government owned daily newspaper, two television networks, and one radio station.

A number of journalists and media outlets experienced intimidation. The National Journalists Association reported 177 cases of harassment, and the Institute of Press and Society issued 105 alerts. Most incidents took the form of violent attacks, threats, judicial pressure, illegal arrests, and theft of broadcasting equipment and journalists' files. Some cases were attributable to a lack of an effective government presence in some parts of the country. Municipal and regional government authorities reportedly harassed reporters in approximately 14 incidents.

By year's end there were no new developments regarding the legal proceedings initiated in January 2007 by Lima municipality officials Jose Luis Zafra and Mazzi Soto against radio journalist Elizabeth Salinas and magazine photographer Cinthia Flores in relation to their investigation of the administration of Mayor Luis Castaneda.

Between September 9 and 14, unknown actors made death threats by telephone against journalist Americo Zambrano of *Caretas* magazine's investigative unit. On September 11, Zambrano had reported information about a series of complaints between Army Commander in Chief Edwin Donayre and other army leaders.

Mary Perez of radio La Voz de la Selva reported that throughout the year, unknown actors threatened her by telephone after her station reported that the Loreto regional government had made irregular purchases of equipment. By year's end there was no information regarding any investigation of the alleged threats.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the free expression of views via the Internet, including by e-mail. The chief impediment to Internet access was a lack of infrastructure. The International Telecommunication Union reported that there were 27 users of the Internet per 100 inhabitants.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for the right of freedom of assembly, and the government generally respected this right in practice. The government maintained emergency zones and suspended the freedom of assembly and other freedoms in coca growing areas, where the Shining Path operated. The emergency zones were located in several provinces in Ayacucho, Huancavelica, Cusco, and Junin departments. The law does not require a permit for public demonstrations, but organizers must inform the

Interior Ministry's political authority (prefect) about the type of demonstration and its location. Demonstrations may be prohibited for reasons of public safety or health. The police used tear gas and occasional force to disperse protesters in various demonstrations. Although most demonstrations were peaceful, protests in some areas turned violent.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

The constitution establishes separation of church and state, but laws favoring the Roman Catholic Church remained in force. The Catholic Church and clergy received preferential treatment in education, tax benefits, and other areas. The law provides that the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion for military personnel. The Ministry of Education requires that Catholic religion courses be taught in all public and private primary and secondary schools; however, many non-Catholic private schools were granted exemptions. Additionally, parents may request an exemption by writing to the school principal.

Societal Abuses and Discrimination

There were no reports of societal abuses, discrimination, or anti-Semitic acts. There were approximately 4,000 members of the Jewish community.

For a more detailed discussion, see the *2008 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for the right of free movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government maintained emergency zones where it restricted freedom of movement in several provinces (see section 2.b.).

The government stated that it implemented the state of emergency to maintain public peace and restore internal order. NGOs commented that the government had not adequately ensured that military personnel operating in the emergency zones were not using excessive force against civilians.

Narcotics traffickers and the Shining Path at times interrupted the free movement of persons by establishing roadblocks in sections of the Upper Huallaga and VRAE. Occasionally protesters blocked roads to draw public attention to grievances.

The law prohibits forced internal and external exile, and the government did not use it.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. Laws allow individuals to apply for refugee status or asylum.

The government cooperated with the Office of the UN High Commissioner for Refugees and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with CMC recommendations. The CMC granted refugee status to 83 persons.

Stateless Persons

Citizenship is derived either by one's birth within the territory or from one's parents' citizenship. Parents must register their child's birth in order for the child to obtain citizenship. The law provides all citizens with the right to a name, nationality, and legal recognition and guarantees other civil, political, economic, and social rights. More than one million citizens, however, lacked identity documents and could not fully exercise these rights. An estimated 15 percent of births were unregistered. Poor indigenous women and children in rural areas were disproportionately represented among those lacking identity documents. Undocumented citizens faced social and political marginalization and barriers in accessing government services, including running for public office or holding title to land.

Obtaining a National Identity Document requires a birth certificate, but many births in rural areas occurred at home. In an effort to lower infant mortality rates, the Ministry of Health fined women who did not give birth in clinics or hospitals. Poor women often could not pay the fines and could not register their children retroactively.

The ombudsman investigated complaints about the unlawful practice of charging fees to issue identity documents and facilitated refunds when such fees had been paid. The ombudsman also helped citizens obtain documents quickly.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of mandatory voting and universal suffrage.

Elections and Political Participation

In 2006 Alan Garcia Perez assumed the presidency after two rounds of presidential elections that were considered free and fair. In the 2006 general elections, the president's APRA party won 36 seats (second to the Union for Peru Party's 45 seats) in the 120-seat unicameral Congress.

Nationwide municipal elections were held in 2006. Domestic and international observer delegations declared the elections to be fair and transparent, despite a few localized incidents of violence.

Political parties operated without restriction or outside interference. Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. Presidential and congressional terms are five years, and the law prohibits the immediate reelection of a president. Groups that advocate the violent overthrow of government are barred from participating in the political process.

There were 32 women in the 120-member Congress. There were five women in the cabinet and four women on the Supreme Court. The Law on Political Parties mandates that at least 30 percent of candidates on the party lists be women. While parties abided by the legislation, many women candidates were included at the bottom of the party lists, reducing their likelihood of winning seats on regional and municipal councils.

There were 23 Quechua and two Aymara speakers in Congress. There was one member of the Afro-Peruvian minority in Congress.

Government Corruption and Transparency

The law criminalizes official corruption; however, the government did not implement the law effectively. There was a widespread public perception that corruption was pervasive in all branches of government.

On August 22, the Sixth Special Criminal Chamber of the Supreme Court sentenced to eight years' imprisonment former air force comptroller Hernan de Souza Peixoto Zumaeta for fraud, embezzlement, and breach of the public trust.

On October 5, unknown actors publicly released audiotapes of conversations suggesting government corruption associated with oil concessions. Authorities

arrested former minister Romulo Leon Alegria and Alberto Quimper Herrera of Perupetro in connection with the scandal. At year's end the judiciary and legislature continued an investigation regarding the scandal.

In August the government decommissioned the National Office of Anticorruption and transferred its responsibilities to the comptroller.

Extradited former president Alberto Fujimori continued to face an array of charges, including corruption. Public officials are subject to financial disclosure laws; government agencies responsible for combating government corruption are the General Comptroller's Office and the Office of Anticorruption.

The law provides for public access to government information, and most ministries and central offices provided key information on Web sites. Implementation of the law was incomplete, particularly in rural areas, where few citizens exercised or understood their right to information. The ombudsman encouraged regional governments to adopt more transparent practices for releasing information and monitored the compliance of regional governments with a law that requires public hearings at least twice a year.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The country's civil society was vibrant and active. A large number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Some NGOs reported that the government had used the Peruvian Agency for International Cooperation, the governing body of international technical cooperation, to audit repeatedly their records, which they believed constituted harassment. In April President Garcia publicly criticized the NGO Association for Human Rights for recommending that the EU parliament drop the Movimiento Revolucionario Tupac Amaru (MRTA) from its list of active terrorist organizations.

In June unknown actors broke into the Ayacucho office of the human rights group EPAF and vandalized electronic and telephone equipment. On October 11, unknown actors inserted a virus via Internet into EPAF's computer equipment that destroyed several documents, including the group's reports regarding the Putis massacre site. Throughout the year EPAF had been conducting exhumations and other forensic work to identify victims of forced disappearances reportedly committed by the military, the Shining Path, and MRTA. There were no reports of any police investigation regarding the vandalism of EPAF's property.

According to COMISEDH, military commanders continued to deny human rights observers access to military facilities. To obtain information about activities in those areas, NGOs had to work through the ombudsman's office.

The Council for Reparations, a government entity, continued assisting persons who suffered during the conflict with Shining Path between 1980 and 2000 and compiled a registry of victims, both individuals and communities. The council registry included 20,808 individuals and 3,634 communities eligible for reparations benefits. A number of victims and family members lacking proper identity documents had difficulties registering for eligibility for the reparations program.

The Office of the Human Rights Ombudsman operated without government or party interference and was considered effective. The ombudsmen lacked adequate resources. During the year the office issued 10 reports recommending that the government strengthen investigations of all human rights cases and abolish fees associated with matriculation in public schools.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, but enforcement lagged and discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted.

Women

Violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse was a problem. Insensitivity on the part of law enforcement and judicial authorities toward female victims contributed to a societal attitude of permissiveness toward abuse. The Ministry of Women and Social Development reported that four of every 10 women were victims of domestic violence.

The law criminalizes rape, including spousal rape, but enforcement was not effective. There were no reports on the numbers of abusers prosecuted, convicted, or punished.

The law prohibits domestic violence, and penalties range from one month to six years in prison. The law authorizes judges and prosecutors to prevent the convicted spouse or parent from returning to the family's home and authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. It also allows health professionals to document injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to women and children who are victims of domestic violence.

The Ministry of Women and Social Development (MIMDES) operated 88 women's emergency assistance centers. There was no information available regarding the number of domestic violence cases the centers handled. MIMDES also operated a toll-free hot line, which handled requests for assistance regarding family disturbances.

Many domestic abuse cases went unreported, and NGOs stated that the majority of reported cases did not result in formal charges because of fear of retaliation or the expense of filing a complaint. The protections offered were limited because of legal delays, ambiguities in the law, and the lack of shelters for victims. MIMDES operated the Women's Emergency Program, which sought to address the legal, psychological, and medical problems facing victims of domestic violence. MIMDES operated centers that brought together police, prosecutors, counselors, and public welfare agents to help victims of domestic abuse.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence, but the ombudsman continued to complain that police officers reacted indifferently to charges of domestic violence, despite legal requirements to investigate the complaints.

Prostitution is legal for women over 18 years of age if they register with municipal authorities and carry a health certificate. The vast majority of prostitutes worked in the informal sector, where they lacked health protection. NGOs reported that traffickers lured increasing numbers of underage women into prostitution. Penalties for pimps and clients of underage prostitutes range from four to eight years in prison. There was no information on the number of cases reported, prosecuted, or convicted.

Sexual harassment was a problem. The law defines sexual harassment as a labor rights violation subject to administrative punishment. Punishments differ depending on the professional situation where the violation took place. Government enforcement was minimally effective.

The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, and property rights, and women from the upper and upper-middle classes assumed leadership roles in companies and government agencies. The law prohibits racial and sexual discrimination in employment or educational advertisements and the arbitrary dismissal of pregnant women. In practice discrimination continued.

The law stipulates that women should receive equal pay for equal work. However, societal prejudice and discrimination led to disproportionate poverty and unemployment rates for women. On average, women were paid 46 percent less than men; usually worked in less secure occupations as maids, in factories, or as street vendors; and were more likely to be illiterate due to lack of formal education.

Children

The government was committed to the welfare and rights of children.

There were problems with government registration of births (see section 2.d.).

Violence against children and the sexual abuse of children were serious problems. MIMDES reported 845 cases of violence or sexual abuse of children five years of age and under and 1,909 cases of abuse of children ages six to 11. Many abuse cases went unreported because societal norms viewed such abuse as a family problem that should be resolved privately. The Women's Emergency Program worked to help children who were victims of violence. The country was a destination for child sex tourism, with Cusco and Iquitos as the principal locations.

MIMDES' Children's Bureau coordinated government policies and programs for children and adolescents. At the grassroots level, 1,350 children's rights and welfare protection offices resolved complaints ranging from physical and sexual abuse of children to abandonment and failure to pay child support. Provincial or district governments operated approximately 50 percent of these offices, while schools, churches, and NGOs ran the others. Law students staffed most of the units, particularly in rural districts. When these offices could not resolve disputes, officials usually referred cases to the local prosecutors' offices of the Public Ministry, whose adjudications were legally binding and had the same force as judgments entered by a court of law.

Trafficking in Persons

The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, through, or within the country.

The country was a source, transit point, and destination for trafficked persons. Internal trafficking was the major trafficking problem in the country. No authoritative estimates existed on the extent of international trafficking, but evidence indicated that persons were trafficked to Spain and particularly to Japan through organized criminal networks. During the year there were reports that victims were trafficked into the country from Ecuador and Bolivia.

The government, NGOs, and international organizations reported that significant domestic trafficking occurred, particularly in districts located in the Andes or the Amazon jungle, to bring underage girls into cities or mining areas to work as prostitutes or domestic servants. The purposes of trafficking included sexual and labor exploitation. The principal victims and groups at high risk for trafficking were children and young women from rural or poor urban areas, persons living in poverty, persons with disabilities, victims of domestic abuse, illiterate persons, and persons lacking birth certificates or other identification documents. There were reports that infants and children were sold to traffickers who used them for begging activities.

Traffickers' methods often combined emotional manipulation and coercion. Victims were recruited by friends or acquaintances and through newspaper and Internet advertisements or street posters offering employment. Some victims were recruited by local employment agencies that offered poor young women from rural areas relatively well-paid "restaurant work" in Lima, Cusco, major coastal cities, and

abroad. NGOs reported that the principal traffickers were local crime groups, parents of victims, and informal networks involving acquaintances or extended family members. Traffickers usually transported their victims by road, while a smaller percentage traveled by air or river. The families of the victims wittingly or unwittingly facilitated the trafficking by trusting a "friend" or a distant relative who promised the victim a job.

The law provides penalties from eight to 15 years' imprisonment for those who move a person, either within the country or to an area outside the country, for the purposes of sexual exploitation (including prostitution, sexual slavery, or pornography). If the victim is under 18 years old, the punishment is 12 to 20 years' imprisonment. Laws prohibiting kidnapping, sexual abuse, and illegal employment of minors also were enforced and used to punish those who trafficked persons. The law was not effectively enforced.

On December 1, the government enacted a new antitrafficking law that provides for improved law enforcement in prevention, protection, and prosecution of trafficking cases.

The PNP's Trafficking Investigation Unit raided clandestine brothels, rescued a number of young women, and returned victims to their families. The raids resulted in few arrests for trafficking crimes. Authorities charged most persons with pimping and related crimes. The PNP's trafficking unit reported investigating 30 cases, rescuing 56 victims, and arresting 15 alleged traffickers.

On June 13, authorities arrested Paulina Grajeda Salazar in Cuzco for labor and sexual exploitation of minors. The victims were transported from the city of Iquitos to work at her three nightclubs in Cuzco. At year's end there was no further information regarding developments in this case.

On December 14, authorities captured and charged Teobaldo Saavedra Chamba, the owner of a bar in Sullana, with sexual exploitation of minors. At year's end there was no further information regarding developments in this case.

On December 15, authorities in Piura arrested Segundo Yoel Merino Sanchez, the owner of a tourist restaurant in Sullana. Authorities charged him with exploitation of minors. At year's end there was no further information regarding developments in this case.

There were no new developments regarding the August 2007 arrest of Leydi Elisa Machaca Coaquira and Norma Gomez Gomez on charges of trafficking in persons for kidnapping and forcing a girl to work for three years in Puno.

By year's end the case of Carlos Arturo Yong Chong, whom authorities arrested in 2006 for trafficking infants to France, was at the trial stage.

In September the Directorate of Criminal Investigation of the PNP, in coordination with the National Permanent Commission on Human Rights, the Office of Social Communication of the Ministry of the Interior, and the Office of the UN Against Drugs and Crime, conducted an information and prevention campaign on human trafficking that included posters with a telephone number to report crimes.

The government coordinated with NGOs to protect and assist victims. A Catholic order, the Sisters of Adoration, operated three programs for underage female prostitutes: a live-in center for approximately 75 girls and 20 children of the victims in Callao and two drop-in centers in Lima and Chiclayo. All facilities offered medical attention, job training, and self-esteem workshops designed to keep underage girls from the streets. The government provided the building in Callao and paid for upkeep, utilities, and food.

The Ministry of Interior's Office of Human Rights maintained a toll-free trafficking hot line. The hot line staff received support from the International Organization for Migration, which assisted in informational campaigns and training government officials in trafficking issues. The Ministry of Foreign Affairs produced and distributed antitrafficking materials to domestic passport offices and overseas consular posts.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and provides for their protection, care, rehabilitation, and security. The law also mandates that public spaces be free of barriers and accessible to persons with disabilities. The law provides for the appointment of a disability rights specialist in the ombudsman's office; the government, however, devoted limited resources to enforcement and training, and many persons with physical disabilities remained economically and socially marginalized. The government made little effort to ensure access to public buildings. There were no interpreters for the deaf in government offices and no access to recordings or braille for the blind.

The government failed to enforce laws providing that the state is responsible for safeguarding and attending to persons with mental health problems in situations of social abandonment. The number of medical personnel in psychiatric institutions was insufficient; in some cases patients cared for each other. The NGOs Mental Disability Rights International and the Association for Human Rights reported that the government did not protect adequately the rights of persons with mental illnesses, including inhuman treatment of institutionalized patients, discrimination in the provision of health and social services, and failure to ensure informed consent.

MIMDES' National Council of the Person with Disabilities (CONADIS) is responsible for protecting the rights of persons with disabilities. On October 23, CONADIS signed an

agreement with the NGO Sense International to provide educational, vocational, and training services for meeting the needs of deaf and blind persons, foster increased public awareness, and integrate deaf and blind persons into society. CONADIS also donated wheelchairs to persons with disabilities.

National/Racial/Ethnic Minorities

The law provides all citizens equality before the law and forbids discrimination on the basis of race, national origin, or language.

The population includes large minorities of persons of Asian and African descent. Afro-Peruvians, who were among the poorest groups in the country, faced discrimination and social prejudice. Afro-Peruvians generally did not hold leadership positions in government, business, or the military. Few Afro-Peruvians served as officers in either the navy or the air force. Although the law prohibits mentioning race in job advertisements, NGOs alleged that employers often found ways to refuse Afro-Peruvians jobs or relegate them to low-paying service positions. Employers often required applicants to submit photos. The media often portrayed Afro-Peruvians as stereotypes.

Indigenous People

The law prohibits discrimination based on race and provides for the right of all citizens to speak their native language. Spanish and Quechua are the official languages; the government also recognizes 49 other indigenous languages. The government did not provide sufficient resources to protect effectively the civil and political rights of indigenous persons.

Most indigenous persons and those with indigenous features faced societal discrimination and prejudice. They were often the victims of derogatory comments and subjected to illegal discrimination in restaurants and clubs.

Language barriers and inadequate infrastructure in indigenous communities impeded the full participation of indigenous persons in the political process. Many indigenous persons lacked identity documents and could not exercise basic rights.

The geographic isolation of highland and Amazon jungle communities contributed to their social, economic, and political marginalization. The UN Children's Fund reported that indigenous persons in rural areas often did not have access to public services, particularly health care and education. Ninety percent lived in poverty, and only 39 percent had completed primary school. Child mortality rates were higher in indigenous areas, and only 20 percent of births took place in public health centers.

While the constitution recognizes that indigenous persons have the right to communal land ownership, indigenous groups often lacked legal title to demarcate the boundaries of their lands, making it difficult to resist encroachment by outsiders. By

law local communities retain the right of unassignability to prevent the reassignment of indigenous land titles to nonindigenous tenants. However, some members of indigenous communities sold land to outsiders without the consent of the majority of their community. Mineral or other subsoil rights belong to the state, a situation that often caused conflict between mining interests and indigenous communities. The International Labor Organization (ILO) Committee of Experts 2008 (ILO COE) observations asked the government to provide information on measures adopted, in consultation with and the participation of indigenous persons, to determine to what extent indigenous community interests would be affected before undertaking or authorizing programs for prospecting or utilizing subsurface natural resources in indigenous lands and territories.

On August 9, indigenous communities in the provinces of Loreto, Cusco, and Amazonas blocked roads, surrounded hydrocarbon installations, and threatened to halt the flow of energy resources in a move to protect indigenous lands against alleged incursions by outside investors. The protesters demanded that the government annul decrees that reduced from two-thirds to a simple majority of local community members required to approve changes in communal land ownership. In response to the protests, the government declared a state of emergency in the three provinces. On August 22, Congress overturned the decrees.

The constitution provides that all citizens have the right to use their own language before any authority by means of an interpreter. In Congress native speakers of Quechua conducted some debate in Quechua (translators were available for non-Quechua speakers). The National Program of Mobilization for Literacy continued teaching basic literacy and mathematics to poor men and women throughout the country.

In May MIMDES restored the status of the National Institute of Development of Andean, Amazonian, and Afro-Peruvians (INDEPA) as an autonomous government entity. INDEPA's board had 23 members including four Andean, three Amazonian, and two Afro-Peruvian representatives elected by popular vote in their respective communities. INDEPA's mission is to formulate and adopt national development policies, programs, and projects for Andean, Amazonian, and Afro-Peruvian communities. During the year INDEPA lacked a separate budget and was ineffective.

Other Societal Abuses and Discrimination

Homosexuals and persons with HIV/AIDS faced extensive discrimination and harassment. The Ministry of the Interior Handbook of Human Rights Applied to the Civil Police stipulates that police must respect human rights, especially of the most vulnerable groups, and refers explicitly to the human rights of lesbians, gays, and transvestites. The Ministry of Health (MINSa) implemented policies to combat discrimination based on sexual orientation.

MINSAs executed policies to combat discrimination based on HIV/AIDS status, including a four-year strategic plan to prevent and control HIV/AIDS. On December 1, as part of "World Day to Combat AIDS," MINSAs and the Office of the Multinational Coordinator of Health gave free antiretroviral treatment to 12,500 persons with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of association. Regulations allow workers to form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers are not required to seek authorization prior to forming a trade union, and employers cannot prevent employment because of union membership. Judges, prosecutors, and members of the police and military are not permitted to form or join unions. More than 70 percent of the 13 million-member labor force worked in the informal sector. The Ministry of Labor (MOL) reported that approximately 7 percent of the labor force was unionized.

Many businesses hired temporary or contract workers who were legally not permitted to participate in those firms' unions. Although the law forbids businesses from hiring temporary workers to perform core company work functions, employers circumvented these restrictions in a number of ways. On June 24, however, the government enacted a new law governing subcontracting that requires businesses to monitor their contractors and imposes liability on businesses for the actions of their contractors.

Businesses in export processing zones (EPZs) had more flexibility under the law in hiring temporary labor.

The constitution provides for the right to strike but aims to balance this right with broader economic objectives. Unions in essential public services, as determined by the government, must provide a sufficient number of workers during a strike to maintain operations. The law bans government unions in essential public services from striking. It also requires strikers to notify the MOL before carrying out a job action.

Between January and September the government declared legal three out of 53 strikes. According to labor leaders, permission to strike was difficult to obtain, in part because the ministry feared harming the economy. The MOL justified its decisions by citing unions' failure to fulfill the legal requirements necessary to strike.

Between February 18 and 21, a nationwide farmers' strike protesting price increases in cooking oil and other basic food products resulted in the deaths of four persons, the arrest of 150 others, and a state of emergency in eight provinces.

b. The Right to Organize and Bargain Collectively

The law recognizes the right of public and private sector workers to organize and bargain collectively but specifies that this right must be exercised in harmony with broader social objectives. A union must represent at least 20 workers to become an official collective bargaining agent. Union representatives have the right to participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that the high cost of arbitration made it difficult to use.

The law prohibits antiunion discrimination and other forms of employer intimidation, and workers fired for union activity have the right to reinstatement. However, the government did not effectively enforce the law, and employers engaged in antiunion practices.

There were no recognized unions, special laws or exemptions from regular labor laws in the four EPZs. All labor in the EPZs was subcontracted.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including labor by children; however, there were reports that such practices occurred.

The ILO estimated that between 20,000 and 40,000 persons worked as forced laborers, primarily in the logging industry in the Amazon region. The ILO COE 2008 observations requested that the government act to combat effectively persistent forced labor practices, including slavery and debt bondage, affecting many workers from indigenous communities in Atalaya and other provinces. The ILO COE identified specifically indigenous workers subjected by landowners to debt bondage in stock-raising and timber estates. Although the government reported that it had not received any complaints or issued any penalties regarding forced labor, the ILO COE observed that the absence of penalties indicated the incapacity of the judicial system to prosecute and penalize those responsible. The ILO COE asked the government to provide information on progress to investigate, prosecute, and achieve convictions for forced labor cases. The MOL reported that approximately 5,000 children worked as forced laborers in producing coca. Another undetermined number of children worked as forced laborers in gold mining.

During the year the MOL trained its first group of labor inspectors to specialize in combating forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment

Laws exist to protect children from exploitation in the workplace and prohibit forced or compulsory labor. In practice child labor remained a serious problem, and the laws were violated routinely in the informal sector. The ILO estimated that during the year there were approximately two million working children in the country. Child labor was

a serious problem in gold mining, stone extraction, timber production, brick manufacturing, and coca and Brazil nut production.

The legal minimum age for employment is 14. However, children between the ages of 12 and 14 may work in certain jobs for up to four hours per day, and adolescents between ages 15 and 17 may work up to six hours per day if they obtain special permission from the MOL and certify that they are attending school. In certain sectors of the economy, higher minimums were in force: age 15 in industrial, commercial, or mining and age 16 in fishing. The law prohibits children from engaging in certain types of employment, such as working underground, lifting or carrying heavy weights, accepting responsibility for the safety of others, or working at night. The law prohibits work that jeopardizes the health of children and adolescents, puts their physical, mental, and emotional development at risk or prevents regular attendance at school.

The MOL's Office of Labor Protection for Minors may issue permits authorizing persons under age 18 to work legally, and between January and August granted 851 such permits, the majority of which went to children between ages 16 and 17. Parents must apply for the permits, and employers must have a permit on file to hire a child.

The government identified stone extraction, coca production, and brick making as among the worst forms of child labor. The MOL estimated that the 5,000 forced child laborers in coca production collected leaves, and handled and mixed by hand and foot dangerous chemicals for cocaine processing.

The MOL is responsible for enforcing child labor laws, and its inspectors may investigate reports of illegal child labor. The ministry stated that inspectors conducted routine visits without notice to areas where persons or organizations reported child labor problems. The government reported that it fined and suspended operations of firms found violating labor laws.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. There were 406 labor inspectors, with 315 working in Lima, whose inspections focused on the formal sector. In May authorities transferred 88 of the 315 inspectors in Lima to regional offices throughout the country.

The Office of the Ombudsman for Children and Adolescents (DEMUNA) worked with the MOL to document complaints regarding violations of child labor laws. There were more than 1,000 DEMUNA offices in municipalities throughout the country. DEMUNA also operated a decentralized child labor reporting and tracking system. MIMDES administered a program that sent specialized teachers to the streets to provide education and support to minors involved in begging and other kinds of work.

The National Intersectoral Commission for the Eradication of Forced Labor, a government entity, operated a program in Huachipa that targeted 150 children and

adolescents working in brick making and other industries. The program provided information to raise awareness within the community about child labor, education for child workers, and assistance to parents to develop skills to find alternative employment.

e. Acceptable Conditions of Work

The law states that workers should receive a just and sufficient wage determined by the government in consultation with labor and business representatives, as well as adequate protection against arbitrary dismissal. The statutory monthly minimum wage is 550 soles (\$176), which did not provide a decent standard of living for many families. The government estimated the poverty line to be approximately 207 soles (\$65) a month per person, a figure that varied by region. The MOL enforced the minimum wage only in the formal sector, which employed approximately 20 percent of the labor force, and many workers in the unregulated informal sector, most of whom were self-employed, received less.

Employers frequently required long hours from domestics and paid wages as low as 75 to 105 soles (\$20 to \$30) per month. The law provides for a 48-hour workweek and one day of rest and requires companies to pay overtime for more than eight hours of work per day and additional compensation for work at night. Labor, business, and the government reported that the majority of companies in the formal sector complied with the law, and that these standards were enforced.

Occupational health and safety standards exist. Nevertheless, the government often did not devote sufficient personnel, technical, and financial resources to enforce compliance with labor laws. Labor sources claimed that many inspectors were forced to pay for transportation to sites and were often harassed or refused entry by businesses. Many fines went uncollected, in part because the MOL lacked an efficient tracking system. The ILO COE's 2008 observations noted numerous problems confronting the labor inspectorate, including lack of support and commitment by public authorities. The ILO COE requested that the government ensure that labor inspectors were empowered to enter freely workplaces for inspection without having to give prior notice to employers.

The MOL reported that between January and October its inspectors conducted 99,363 visits to work sites (compared with 29,449 visits in 2007) and levied 6,212 fines, including 715 for health and safety violations.

In cases of industrial accidents, an agreement between the employer and worker usually determined compensation. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist for workers to remove themselves from potentially dangerous situations without jeopardizing employment.