

Peru

Country Reports on Human Rights Practices - 2005

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Peru is a multiparty republic with a population of approximately 28 million. In 2001 Alejandro Toledo of the Peru Posible party won the presidency in elections that generally were free and fair. The civilian authorities generally maintained effective control of the security forces

Although the government generally respected the human rights of its citizens, there were serious problems in a number of areas. The following human rights problems were reported:

beatings, abuse, and torture of detainees and inmates by police and prison security forces

harassment of witnesses by security forces

impunity of military and security forces

poor prison conditions

prolonged pretrial detention and inordinate delays of trials

pressure on the media by local authorities and other groups, including coca growers and a notorious narcotrafficker

violence and discrimination against women

violence against children, including sexual abuse

trafficking in persons

discrimination against indigenous people and minorities

significant obstacles to persons with disabilities

restrictions on collective bargaining rights

child labor in the informal sector

The terrorist organization Shining Path (Sendero Luminoso) was responsible for killings and other 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, although there was one report of an unlawful killing by police from 2004, which came to public attention during the year. Unlike in previous years, no military recruits died under suspicious circumstances during the year, compared with two such cases in 2004.

In January the Human Rights Commission (COMISEDH) accepted the case of three police officers who allegedly beat Ricardo Huaranga Felix to death when they arrested him in November 2004. Family members of the deceased stated they had received threats from unknown persons urging them to drop the case against the police. On November 22, unknown persons abducted and beat a key witness in the case and left him in a remote area of Lima. COMISEDH filed a complaint with the prosecutor of Lima's Northern Cone. At year's end the case continued in the National Criminal Court, and two of the three accused officers remained in prison.

In August a court found three members of the security forces guilty of the 2002 murder of Jose Reina Rincon and sentenced each of them to 25 years' imprisonment.

There were no new developments in the criminal case against four police officers accused of the 2003 torture and killing, while in custody, of Edgar Lopez Sancarranco.

In May the Cuzco prosecutor brought charges of 16 years' imprisonment and a fine of \$15 thousand (51,600 soles) against 7 police officers involved in the 2003 death in custody of Julio Alcazar Dolmos.

In April the fourth supraprovincial prosecutor of Lima dropped, for lack of evidence, charges against police officers involved in the 2002 death in custody of Gerardo Adrianzen Otarola.

In April the Supreme Court of Justice upheld the ruling of a lower court in Chincha that had sentenced four agents of the National Penitentiary System to five years in prison for the 2001 killing of inmate Esteban Minan Castro.

At year's end there were no new developments and none were expected in the 2003 case of the killing of Edy Quilca Cruz and the injury of 30 other persons fired upon by soldiers during a protest in Puno.

In February authorities filed homicide charges in the criminal court in Huanta against two military officers in the June 2004 case of Peter Vasquez Chavez, a 23-year-old military recruit who had been found dead at the Cangari-Huanta Military Base in Ayacucho. Although the military stated that Vasquez Chavez died as a result of an attack by the Shining Path, local residents stated that no such attack took place. The case continued at year's end.

In December 2004 the court of Puquio in Ayacucho ordered investigations into the October 2004 case of Army Corporal Edgar Ledesma Lopez, who was found dead in his military barracks. Four military officers remained under investigation at year's end.

There were no further developments and none were expected in the 2003 deaths of recruits Leonel Sanchez Rivero and Freddy Campos Avendano.

Investigations continued in the 2003 deaths of Army recruit Corporal Magno Ariza Paitan and Corporal John Lenon Olortegui.

Following an August retrial, prosecutors elected not to file charges in the 2000 killing of Air Force recruit Jose Luis Poma Payano.

The government continued to arrest members of the Grupo Colina death squad. Since 2001 authorities have arrested 13 members of the group. At year's end the trials, which included the cases of Barrios Altos and La Cantuta, were all in the oral proceedings phase.

The case involving charges of extrajudicial killing in the 1997 rescue of 74 hostages at the Japanese ambassador's residence continued to progress through the judicial system. As of mid-year former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio remained in custody, and the Supreme Court of Justice continued to consider which of the anticorruption courts should handle the proceedings.

In August the prosecutor's office dropped its case against former president Alan Garcia and members of his cabinet for their roles in the 1986 El Fronton prison massacre. COMISEDH appealed this decision, and the First Supraprovincial Court investigated possible charges against authorities allegedly responsible for the loss of life at El Fronton.

In August 2004 the Supreme Court of Justice ruled that the case involving a 1980 massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, be tried by civilian courts, since it dealt with human rights violations. At year's end the case was being handled by the National Criminal Court, which scheduled oral proceedings to begin in February 2006.

The terrorist group Shining Path continued to kill civilians as well as military and police officials. There were 60 reported terrorist incidents during the year, the most serious of which occurred in Junin, Huanuco, San Martin, and Ayacucho. During the year members of Shining Path killed 17 policemen, 5 civilians, and 1 judge. For example in July, members of Shining Path killed four civilians, one policeman, and one judge in two separate incidents in Satipo Province and Tocache Province.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no new developments in the case against Peruvian National Police (PNP) Commander Juan Carlos Mejia Leon and several PNP officers charged with the 2003 kidnapping of Ernesto Rafael Castillo Paez, a student detained by the PNP for being a suspected terrorist in 1990 who subsequently disappeared.

There were no new developments in the trial of 11 policemen for the 2003 disappearance of Andy Williams Garces.

In September oral proceedings began against four members of the security forces charged with the 1990 kidnapping and disappearance of Ernesto Rafael Castillo Paez.

The Shining Path committed kidnappings. In November a group of heavily armed Shining Path members kidnapped 10 employees of a foreign development contractor in Huanuco Department. The abductors later released the employees but threatened to kill them if they returned to the area.

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

Although the law prohibits such practices, there continued to be reports of torture of detainees, excessive use of force against protesters, and abuse of military recruits. The authorities seldom held responsible those who allegedly committed abuses.

Torture often occurred immediately following arrest, when families were prohibited from visiting suspects held incommunicado, and when attorneys had limited access (see section 1.d.).

In some cases police and security forces threatened or harassed victims, their relatives, and witnesses to keep them from filing charges of human rights violations. According to COMISEDH, some victims were reluctant to pursue judicial proceedings against their

abusers, fearing that the abusers would be released without being charged. COMISEDH reported 14 cases of aggravated torture by security forces from January to September, compared with 22 cases in total during 2004. Human rights observers noted that the torture cases normally were not the result of orders from central authorities, but rather represented brutal practices that originated during the campaign against terrorism in the 1980s and 1990s.

On February 21, police beat Juan Zemudio Bocangel until he was unconscious after Zemudio broke a police car window. In July the third supraprovincial prosecutor of Lima charged two police officers, Cesar Augusto Chavez Aguilar and Jose Ben, with aggravated torture.

On April 9, police in La Victoria, Lima, beat Wilmer Cubas Carranza until he was unconscious after Cubas attempted to intervene on behalf of a detained friend. COMISEDH was investigating the case at year's end.

The January 2004 case of John Robert Osorio Morales, who was detained and beaten by police, was transferred in July to the third supraprovincial prosecutor of Lima for further investigation.

During the year COMISEDH examined the July 2004 case of Army soldier Misael Meondoza Carrion, who allegedly was beaten by a superior officer for refusing an order. Mendoza is slowly losing his hearing as a result of the abuse. The 11th provincial prosecutor of Lima's Northern Cone continued to investigate the case at year's end.

In September the National Penal Court, formerly the National Terrorism Court, accepted the August 2004 case of Pablo Fabio Sanchez Conde, who was allegedly tortured by police officers after being detained along with his brother, Miguel. COMISEDH charged that the two also suffered threats from the same police officers accused of abusing them.

A COMISEDH investigation continued in the November 2004 case of Simeon Gonzalez Illescas, a street vendor who was allegedly beaten by several municipal watchmen of Lima's La Victoria section for refusing to pay a local tax.

There were no significant developments in the investigation of the following cases from 2003 involving prison guards: the beating of Wilber Escobedo; the alleged torture of an inmate at Challapalca prison; and the alleged torture of Miguel Angel Vela del Aguila.

The 2003 case involving six members of community self-defense groups allegedly tortured by police remained in the instruction phase, and the six were released under their own recognizance.

In November the judge in the 2002 case of alleged police torture of Renzo Vega Hidalgo dismissed the case. COMISEDH appealed the decision and the case remained in process at year's end.

In May the prosecutor issued formal charges of torture against police for the 2002 beating of Jair Martin Rodriguez and his brother. At COMISEDH's urging, the case was remanded to the National Penal Court in July where oral proceedings had begun by year's end.

In February the presiding judge found six prison guards accused of beating inmate Alfonso Valle Oquendo in 2002 guilty. The defendants appealed the decision, and the case continued at year's end.

Nongovernmental organizations (NGOs) and the human rights ombudsman continued to monitor the treatment of army recruits. Unlike in previous years, there were no reports that officers beat, abused, or killed lower-ranking soldiers (see section 1.a.).

In February the Supreme Court of Justice reviewed the 2002 case of Raul Ochoa Ravello, who allegedly assaulted a soldier, Noe Moises Canales Salazar. The court changed the charges against Ochoa from torture to infliction of injury that lead to death. The Supreme Court of Justice sent the case back to its original court in Piura for additional deliberations.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons suspected of committing offenses such as robbery, burglary, rape, and child molestation. According to police statistics, during 2004 there were almost 2 thousand such incidents, resulting in 19 deaths. The majority occurred in the countryside, although Lima registered an increase (to 695) of cases where mobs seized and punished suspected thieves. Local experts explained that lack of police presence and lack of faith in the justice system had led to outbreaks of violence against suspected criminals. Persons seized were beaten, tied to lampposts, and sometimes sprayed with gasoline and set afire.

Prison and Detention Center Conditions

Prison conditions varied greatly. For prisoners without funds, conditions were poor to extremely harsh in all facilities. Prisoners with funds had access to a range of amenities. For example, they could dine in restaurants within the prisons or could receive meals sent from the outside. Overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Inadequate training of security forces and lack of control within the prison system also were serious problems. Inmates in all prisons had intermittent access to running water; bathing facilities were inadequate; kitchen facilities remained generally unhygienic; and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels. For regular inmates, prison authorities budgeted approximately \$1 (3.14 soles) per prisoner per day for food. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7 thousand prisoners lived in a facility built to accommodate 1,500.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

Conditions were particularly harsh in maximum-security facilities located at high altitudes. During the year the government responded to criticisms from human rights monitors, including Amnesty International, and permanently closed the Challapalca Prison in Tarata, Tacna.

Prison guards and fellow inmates routinely victimized and abused prisoners. Corruption was a serious problem among poorly paid prison guards. Some guards, for example, cooperated with criminal bosses inside prisons, who oversaw the smuggling of guns and drugs into the facilities.

Lax controls over inmates and overcrowding contributed to a severe prison riot at the San Juan de Lurigancho Prison on February 8, which resulted in 5 inmate deaths and 25 injuries. Prison experts warned that anarchy in Lurigancho could not be solved without reforms to the clogged and corrupt judicial system. Press investigations following the riots indicated that prison conditions permitted some incarcerated criminals to use jail time to plan and benefit from crimes committed by accomplices outside the prison system.

Detainees were held temporarily in pretrial detention centers located at police stations, judiciary buildings, and, in large cities, at the public ministry.

Pretrial detainees were held together with convicted prisoners in most cases.

The government permitted prison visits by independent human rights observers, including the ICRC. The ICRC made 167 unannounced visits to inmates in 65 different prisons, detention centers, and juvenile detention facilities.

d. Arbitrary Arrest or Detention

The constitution, criminal code, and antiterrorist statutes prohibit arbitrary arrest and detention, although the organic law of the PNP permits police to detain a person for any investigative purpose. 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. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable.

Role of the Police and Security Apparatus

The PNP, with a force of 90,385, was responsible for all areas of law enforcement in the country and functioned under the authority of the Minister 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 terrorism) and local police units. Each department, province, city, and town has a PNP presence.

Experts noted that the PNP was undermanned, had problems with professionalism, was often ineffective against common criminal activity, and unable at times to meet its mandated responsibilities, such as witness protection. Corruption and impunity were problems.

The interior ministry and the PNP attempted to address these weaknesses. The Green Squad police unit continued to be effective in raiding clandestine brothels that were often engaged in trafficking in persons and other crimes (see section 5). During the year the PNP shifted more police officers from administrative duties to police stations and to units responsible for patrolling the streets.

Arrest and Detention

The law requires police to file a report with the public ministry within 24 hours whenever a suspect is arrested while committing a criminal act. The public ministry, in turn, must issue its own assessment of legality of police actions in the arrest.

Persons are apprehended openly with a warrant issued by a judicial authority. The law also provides the right to prompt judicial determination. An average of 20 hours elapsed between the time that a person was detained and the person's appearance before a judge. Judges have two hours to decide whether to release or continue to detain the suspect. There was a functioning bail system; however, economic limitations prevented many defendants from posting the required payments. Criminal detainees are allowed prompt access to a lawyer and to family members. The justice ministry provided indigent persons with access to attorneys' advice at no cost.

Persons detained for espionage, drug trafficking, corruption, and terrorism may be held for up to 15 days. Police may detain terror experts for incommunicado for the first 10 days. The public ministry oversees the detention centers, whose conditions also are monitored by the ombudsman's office.

In practice authorities did not enforce the foregoing legal norms. Persons detained in remote areas sometimes were held for longer periods due to difficulties in getting access to counsel and formulating charges. Some remote, rural police stations also lacked basic facilities. Oversight of pretrial detention centers generally was more effective in the cities than in rural areas.

There were no reports of political detainees.

Lengthy detention before trial and sentencing continued to be a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System (CERIAJUS), of 29,581 persons held in prison, 31 percent had been sentenced, while 69 percent were cases still being tried. If prisoners are held more than 18 months (or 36 months in more complex cases) without being sentenced, they are released.

During the year the Lima Superior Court implemented various measures to streamline case-handling and accelerate trial processing, including improvements in case management and a requirement that case files be sent to the prosecutor on a daily basis for evaluation in regard to pretrial detention.

During the year the executive branch established a commission to create an implementation plan for the new criminal procedures code, which was approved in July 2004 to create an accusatory system for criminal cases. The commission's plan called for the gradual implementation of the new code over a five-year period, beginning in 2006.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice.

The three-tier court structure consists of lower and superior courts, and a Supreme Court of Justice of 30 judges. A constitutional tribunal of seven members operates independently of the judicial branch. The independent National Judicial Council (CNM) appointed, disciplined, and evaluated all judges and prosecutors who have served in their position for seven years

or more. Failure to be certified by the CNM disqualified a judge or prosecutor from working in that capacity again.

In May the government presented a report recognizing that the CNM's procedures violated the due process criteria of the Inter-American Commission of Human Rights (IACHR). Consequently, the government agreed to the following remedial measures: an indemnity of \$5 thousand (17,200 soles), the establishment of a new evaluation procedure that would take place within five months of settlement of the dispute, and the reincorporation of formerly disqualified justices into their former positions or those of a similar level.

Judicial reform remained a government priority, but implementation was irregular. During the year some of CERIAJUS' recommendations were put into practice. Congress approved 13 of 52 legal proposals put forward by CERIAJUS, among these a proposal to create a special commission dedicated to following up on the proposed reforms. The judiciary created the first seven judgeships for a special commercial court and continued to post an estimated nine thousand Supreme Court of Justice decisions on its Web site. Superior court justices and their administrators also received special training in public administration.

In addition the CNM approved new regulations (including suggestions from civil society) for the selection of judges and prosecutors.

Witness protection remained a significant weakness of the justice system. The National Coordinator for Human Rights, an umbrella Human Rights NGO, documented 45 cases of attacks on witnesses during the year. In February a witness in the case of accused narcotics trafficker Fernando Zevallos was attacked, and on June 1, for the third time in 15 months, unknown assailants attempted to kill Luis Alberto Ramirez, the key witness in the trial of General Luiz Perez.

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 whether there is sufficient evidence to open legal proceedings. A judge conducts an investigation, determines facts, guilt or innocence, and issues a sentence. All defendants enjoy a presumption of innocence, have the right to be present at their trial, have the right to counsel, and may call witnesses. The public defender system often failed to provide indigent defendants with qualified attorneys. Defendants may appeal to the superior court and then to the Supreme Court of Justice.

Under the military justice system, judges in the lower courts may sentence and must pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its 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.

In August 2004 the Constitutional Tribunal ruled that the military-political commands created to maintain order during states of national emergency were unconstitutional. At year's end the revisions necessary to bring the Code of Military Justice into line with these decisions

were being worked on by a commission set up by the executive that included representatives of the ministries of justice and interior, the judiciary, and the public ministry, and three judges.

During the year in accordance with the decisions of both the IACHR and the Constitutional Tribunal, the Special Terrorism Court continued to re-try defendants previously convicted by military tribunals. The National Penal Court handed down 250 sentences. Another 307 cases remained to be decided. The National Penal Court convicted 65 percent of those accused. It absolved 600 persons as a result of sentences completed, time off granted for cooperation, or lack of substance to the charges against them. At the end of 2004, there were 1,400 persons in prison sentenced for having committed acts of terrorism. The trial of Shining Path leader Abimael Guzman in civilian court was ongoing at year's end.

During the year the Constitutional Tribunal handed down two sentences with important human rights implications. In the first, the tribunal reiterated the principle that civilian courts rather than military ones should handle human rights cases. In the second, it found that disappearances constituted a "permanent crime" and therefore were not subject to a statute of limitations.

During the year the National Penal Court reopened cases involving violations concerning various massacres and abuses attributed to security forces during the war against the Shining Path in the 1980s and 1990s, including such cases as Accomarca, Cayara, Chuschi, the deaths in Los Cabitos, and the deaths of various students in Huancayo. The courts also processed 50 cases involving accusations of torture.

In June and July, the Accomarca and Cayara cases attracted particular attention when the judges ordered the arrest of 147 military figures in the 2 cases. Despite the order, the PNP did not detain many of them, which the press interpreted as reluctance of the PNP to confront the military. PNP sources explained that the arrests were in progress and that military authorities were responsible for detaining active duty military officers. The judges continued to work with the military, but the situation remained unresolved at year's end.

As a follow-up to the recommendations put forward by the Truth and Reconciliation Commission (TRC), the NGO Institute for Legal Defense, in cooperation with the Special Terrorism Court and the Superior Courts of Lambayeque, Ayacucho, and Junin, continued efforts to reduce the large case backlog involving those officially sought for acts of terrorism.

Political Prisoners

There were no reports of political prisoners.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice; however, there were reports that the authorities did not always obtain warrants before entering private dwellings.

Unlike in previous years, COMISEDH received no reports of forced military recruitment.

The Shining Path continued to coerce indigenous persons to join its ranks (see section 5).

Section 2 Respect for Civil Liberties, including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet; however, there were multiple reports of press harassment by provincial authorities or by private groups or organizations such as protesting coca growers (cocaleros). Harassment took the form of attacks on journalists, illegal arrests, or threats of judicial action.

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

On February 15, the government published the regulations for the Radio and Television Law, which congress had approved in July 2004. On July 8, the government named the members of the transportation and communications ministry's Advisory Council, which will regulate the implementation of the law.

Journalists and media outlets reportedly suffered intimidation during the year. The National Journalists Association reported 115 cases of harassment (mainly in the provinces). The Press and Society Institute issued 59 alerts. Both statistics were slightly lower than figures from 2004 (121 and 69, respectively). The majority of these incidents took the form of violent attacks, threats, judicial pressure, illegal arrests, and robbery of broadcasting equipment and journalists' files. Many cases resulted from the general lack of effective state presence in many parts of the country, a factor that rendered journalists vulnerable to attacks from a variety of sources.

On March 2, Mayor Leopoldo Inga and other local officials of the Alto Amazonas Province in Loreto attacked and threatened Jose Antonio Simons, the director of Yurimaguas' El Huinsho magazine. The officials seized a videotape he had made of a meeting between officials and a provincial public prosecutor.

On April 12, police officer Joel Bardales beat Cesar Hildebrandt Jr., a reporter with Lima's Channel 2 television program La Ventana Indiscreta, for investigating alleged illegal enrichment by his sister, Lady Bardales. During the attack, Hildebrandt's video camera and several documents in his possession were stolen.

On April 15, Miguel Angel Carpio, a reporter with the Tocache's television program El Informe and for the radio station Marginal, was forced to leave Tocache because a cocalero association threatened to kill him for allegedly selling a video to the government. The video showed cocalero leader Nancy Obregon admitting that an important portion of coca production was sold to drug traffickers. Carpio denied the sale of the video.

On May 2, Congressman Victor Valdez beat Rufino Zambrano, a reporter with Pucallpa daily Ahora. Valdez had sued Zambrano for allegedly falsely reporting about the congressman's activities.

On May 4, Lima judge Alfredo Catacora ruled that US reporter Jane Holligan and British reporter Sally Bowen had defamed narcotics trafficker Fernando Zevallos. Holligan and Bowen had collaborated on a book, *The Imperfect Spy*, in which they cited sources that

named Zevallos as a drug trafficker. On June 27, a Lima Criminal Superior Court voided Catacora's sentence because of procedural irregularities. The case was sent to a new judge, and a final ruling was pending at year's end.

On July 17, Cecilia Valenzuela, director of the television program *La Ventana Indiscreta*, broadcast a phone threat received on July 9, in which a woman demanded that Valenzuela stop investigating the national police and the interior minister.

Congressman Jorge Mufarech's January 2004 one million dollar (3.44 million soles) lawsuit against *Correo* journalist Pedro Salinas for alleged defamation continued. In November 2004 a court acquitted Salinas. During the year Mufarech appealed the decision, and the case continued at year's end.

On June 19, Dina Ramirez of Yungay charged that she had received death threats. Ramirez's husband, journalist Antonio de la Torre, was killed in February 2004 by David Moises Julca, who allegedly was acting at the behest of his fiancée's father, local mayor Amaro Leon. On December 14, authorities sentenced Leon and his driver, Pedro Angeles, to 17 years' imprisonment. Police continued their search for Julca at year's end.

On August 3, a Pucallpa prosecutor accused four men of involvement in the killing of Pucallpa *Frecuencia Oriental* radio announcer Alberto Rivera. Unknown persons killed Rivera in April 2004, a day after he had described alleged links between Coronel Portillo provincial Mayor Luis Valdez and drug traffickers. Samuel Gonzales Pinedo, one of those detained by authorities, offered testimony in mid-September that implicated Mayor Valdez and others in the mayor's circle. The Pucallpa court continued its investigation at year's end.

On June 16, a Lima judge acquitted publisher of Lima daily *El Comercio*, Alejandro Miro Quesada Garland, and three of his staff in a \$100 million (346 million soles) defamation suit filed by narcotics trafficker Fernando Zevallos in May 2004.

On January 17, the judiciary ratified the arrest order of journalist Alvaro Vargas Llosa, who had been sued for defamation by Adam Pollack in 2001.

On July 5, an arbitration board ruled that the government must pay Baruch Ivcher, owner of Channel 2, \$6.2 million (21.3 million soles) for damages he had suffered when the Fujimori administration seized his television station in 1997.

On January 26, the judiciary sentenced several former directors of the pro-Fujimori dailies to five years in prison for selling their editorial support to the Fujimori administration. Those sentenced were Moises and Alex Wolfenson, Jose Olaya, Alejandro Estenos, Fernando Oliveri, Pablo Documet, and Jorge Rivera. Other press figures received lesser sentences or avoided punishment because they remained outside the country. The government pursued the extradition of several of these figures, including Eduardo Calmell del Solar, Jose Enrique and Jose Francisco Crousillat, and Ernesto Schutz.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

Although the law does not require a permit for a public demonstration, organizers must inform the Ministry of Interior'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 and blocked essential thoroughfares.

On January 1, a pro-cocalero group, the Ethno-Caceristas, seized a police station in rural Andahuaylas, killing four police officers. After several days, authorities took back the station and captured Ethno-Cacerista leader Antauro Humala, who remained in jail along with several of his followers awaiting trial at year's end. In May an agricultural strike affected commerce in 10 regions as farmers compelled the government to buy surplus crops, mostly corn and potatoes, at prices over market value.

Mining activities were frequently the target of protesters who turned violent. On May 24 anti-mining protesters in Espinar seized part of the Tintaya Mine's facilities. The protesters vandalized the mine's offices before vacating the premises, causing mine operations to be suspended for one week.

The ombudsman's office issued monthly reports noting the prevalence of rural unrest regarding a variety of issues, including mining operations, border disputes, as well as strike actions and road blockages by farmers seeking higher prices for their crops.

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 Catholic Church and Catholic clergy received extra benefits from the government in education, taxation of personal income and institutional property, and remuneration. By law the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel. These factors continued to raise concerns about unequal treatment of non-Catholics military personnel.

Churches may register voluntarily with the Office of Ecclesiastical Affairs in the Ministry of Justice to receive tax benefits and exemption from import duties on religious materials.

The Ministry of Education requires Catholic religion courses in all public and private primary schools, although parents may request an exemption by writing to the school principal.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts, during the year.

For a more detailed discussion, see the 2005 International Religious Freedom Report

.d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

Although the law provides for these rights of free movement, authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police may check travelers at control points throughout the country.

The Shining Path occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga, Apurimac, and Ene River valleys. Protesting farmers on occasion also blocked roads in an attempt to pressure the government to purchase surplus crops.

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

While the law prohibits the revocation of citizenship, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the state, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

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 refoulement, the return of persons to a country where they feared prosecution. The government granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees in granting refugee status 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 political refugees on a renewable, year-to-year basis. During the year the CMC rejected refugee requests from 23 persons.

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. Members of the armed forces and the police may now vote.

Elections and Political Participation

In 2001 Alejandro Toledo assumed the presidency in elections that generally were considered free and fair. The two principal parties represented in the 120-member Congress were Peru Posible (33 seats) and the Popular American Revolutionary Alliance (28 seats).

Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. The presidential term is five years, and the law prohibits the

immediate reelection of a president. Groups that advocate the violent overthrow of the government are barred from participating in the political process.

There were 22 women in the 120-member congress and 4 female regional presidents. Approximately 3 percent of the mayors and 25 percent of the city council officers elected at the local level were women. There were 2 women in the cabinet; the attorney general was a woman; and there was 1 woman on the Supreme Court of Justice. The Law on Political Parties mandates that at least 30 percent of the candidate lists for electoral offices at all levels be women.

It was rare for indigenous persons, who make up more than 33 percent of the population, to hold high public office. Congress had one self-declared indigenous member. Three congressmen represented the black minority, estimated to be 3 to 5 percent of the population, but there were no blacks in the cabinet.

Government Corruption and Transparency

Corruption remained a major problem, which the government took steps to address.

In December 2004 President Toledo appointed a new ad hoc anticorruption prosecutor, Antonio Maldonado. During the year Maldonado reorganized the ad hoc prosecutor's office and created a computerized database to improve tracking corruption cases from the Fujimori-Montesinos era as well as more recent cases.

Despite these advances, the pace of anticorruption prosecutions remained a concern. Following more than 3 years of investigations, the anticorruption courts concluded 20 of 205 cases. Authorities accused 1,492 persons of corruption, detained 87, and placed another 87 under house arrest. Approximately 62 percent of the cases remained in the instructions or investigations stage. Human rights activists and civil society actors noted that the law permits 36 months of detention without sentencing, opening the possibility that some of those accused could be freed unless their cases were handled promptly.

On July 9, newspaper publishers Moises and Alex Wolfenson, on trial for press and media corruption during the Fujimori era, were released as the result of a Supreme Court of Justice decision that applied a new law equating house arrest with prison sentencing in calculating the amount of time served. Two weeks after their release, the Constitutional Tribunal found the new law unconstitutional, and the Wolfensons returned to detention. Congress subsequently revoked the law.

The law provides for public access to government information, and most ministries and central offices provided key information on their web pages. However, implementation of the law was incomplete, particularly in rural areas. In addition there was a widespread lack of awareness of the law, and relatively few citizens understood and exercised their right to information. Through a yearly report, the ombudsman encouraged regional governments to adopt transparency-promoting practices. The ombudsman also oversees regional governments' compliance with a legal requirement that compels them to hold public hearings at least twice a year on their activities.

On July 10, the Peruvian Press Council (CPP) requested that the president review a new intelligence law that the CPP asserted contradicted the Law of Transparency and Access to Public Information. The CPP stated that the intelligence law defined national security in

ambiguous terms and mandated excessive prison terms for the publication of confidential government information.

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

Numerous 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.

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

The government continued to implement recommendations in the 2003 TRC report, which noted that approximately 69 thousand persons died during the armed conflict of 1980-2000. During the year authorities issued formal charges in a number of cases brought by the government, involving some 300 military and former military figures. The government also asked the NGO Center for the Promotion and Development of Populations (CPDP), headed by TRC member and Shining Path expert Carlos Tapia, to design a plan for reparations. Most of CPDP's recommendations involved collective reparations for the zones affected by the violence. Some former TRC members and many human rights NGOs lobbied for the creation of a victim registry and some form of individual reparations. The government had not implemented any recommendations at year's end.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

While the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted. There was progress in a number of areas.

Women

Violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse was a chronic problem. Abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward female victims.

The law prohibits domestic violence, and penalties range from one month to six years in prison. The law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify 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.

Ministry of Women and Social Development (MIMDES) centers reported 25,863 cases of domestic violence during the year. The centers attended an average of 2,500 men and women per month. MIMDES also operated a toll free hot line, which handled 8,892 requests for assistance regarding family disturbances.

Women's organizations noted that alcohol abuse and traditional attitudes toward women aggravated the problems of rape and sexual abuse, particularly in rural areas.

MIMDES and NGOs stated that many domestic abuse cases never were reported. NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse or because of the cost involved in pursuing a complaint. In addition legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

MIMDES ran the Women's Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. MIMDES operated 39 centers, which brought together representatives of various government institutions, including police, prosecutors, counselors, and public welfare agents, charged with helping victims of domestic violence.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence. Nonetheless the national ombudsman's office continued to complain that officers reacted indifferently to charges of domestic violence, despite legal requirements that all police stations receive such complaints.

The law criminalizes rape, including spousal rape, and the government enforced the law effectively. The law also provides penalties for those who derive financial benefits from trafficking in persons, Internet child pornography, and sexual tourism involving children. Penalties for pimps and clients of underage prostitutes range from four to eight years in prison.

Prostitution is legal for women over 18 years of age if they register with municipal authorities and carry a sanitary certification. In practice 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 (see section 5, Trafficking).

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 takes place, such as in education or the private sector, domestic service, the armed forces, and the police.

The law provides for equality between men and women and prohibits discrimination against women relative to marriage, divorce, and property rights. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited, although they continued to occur in practice. The law prohibits the arbitrary dismissal of pregnant women.

Traditional assumptions and misconceptions often impeded access to leadership roles for women in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies, where, by law, they are to receive equal pay for equal work. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

Women's rights groups, such as Flora Tristan and Manuela Ramos, studied discrimination against women and suggested ways to address this problem, which often involved education and efforts to change traditional attitudes.

Children

The government was committed to children's rights and welfare.

Education was free and compulsory through secondary school and generally was available throughout the country, although there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books often were prohibitive for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and adolescents worked during daytime hours rather than attend school. Children living in poverty averaged 7.8 years of education, compared with 9.4 years for children living above the poverty line. Based on 2001 population data from the National Institute of Statistics and Information (INEI), 92 percent of children ages 6 to 11 attended school, as did 66 percent of adolescents between 12 and 17 years of age. School nonattendance was highest in rural and jungle areas.

The Ministry of Education operated night schools for working adolescents and continued a tutorial program in the daytime schools, whereby teachers provided extra help to working students. During the year the ministry also initiated a program to teach children their rights, so they would be better able to defend themselves from exploitation.

The latest INEI reports for 2004 indicated a decline in the rate of extreme poverty from 33 percent in 2002 to 26 percent in 2004. The government's integral health security program offered poor mothers and infants as well as school-age children access to health care. The program includes children not attending school. Boys and girls had equal access to health services under this system.

Violence against children and the sexual abuse of children were serious problems. Based on information from its women's emergency centers, MIMDES reported that during 2004 there were 769 cases of violence or sexual abuse of children 5 years of age and under; 1,879 cases for children ages 6 to 11; and 2,721 cases for children ages 12 to 17.

NGOs noted that many abuse cases never were reported to the authorities, since many persons believed that such problems belonged within the family and should be resolved privately. The Women's Emergency Program worked to address the problems facing children who were victims of violence.

The Children's Bureau of MIMDES coordinated child- and adolescent-related government policies and programs. At the grassroots level, 1,312 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 46 percent of these offices, while schools, churches, and NGOs ran the remaining 54 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the public ministry. Settlements adjudicated by these offices legally were binding and had the same force as judgments entered by a court of law.

Trafficking of children was a problem (see section 5, Trafficking).

Child labor was a serious problem (see section 6.d.).

Trafficking in Persons

Trafficking statutes prohibit trafficking in persons and provide penalties 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) from 5 to 10 years' imprisonment. If the trafficking victim is under 18 years of age, the punishment is 10 to 15 years' imprisonment. Laws prohibiting kidnapping, sexual abuse of minors, and illegal employment were enforced and also could be used to punish those who trafficked persons.

During the year the women's ministry took the lead in combating trafficking in persons.

MIMDES brought together local police, judges, NGOs, and others into a Campaign against Child Sexual Exploitation (CCSE) in Iquitos. In April MIMDES sponsored a seminar that approved an intervention model for police operations against trafficking and CCSE.

MIMDES also organized a publicity campaign with the tourism ministry (MINCETUR) to promote awareness in Iquitos. MINCETUR provided domestic airlines with an in-flight video and distributed flyers at airports warning tourists that sex tourism can result in lengthy prison sentences.

From August to November, the International Labor Organization (ILO) co-sponsored a CCSE training program for police in six cities (Lima, Iquitos, Cusco, Tarapoto, Chiclayo, Tacna). NGO representatives noted that the PNP had incorporated the course into the police academy's official curriculum.

The Multi-Sectoral Committee, a collaboration between government ministries and domestic and international NGOs, took a number of actions against traffickers. PNP officers repeatedly raided clandestine brothels, resulting in the rescue of a number of young women who were returned to their families. At year's end one international trafficker remained under arrest and awaited trial. Authorities detained other domestic traffickers in raids and then released them pending investigation.

On December 29, authorities sentenced Congressman Torres Ccalla to eight years in prison on charges of rape for his relationship with an underage woman. Torres Ccalla had brought the young girl to Lima from his home district of Puno, allegedly to work in his office.

Maria Yataco, allegedly linked to a ring of persons who trafficked women to Japan, remained in custody, and authorities levied additional charges against her.

There were no significant developments in the case of Liliana Mendoza, a trafficking victim rescued from a brothel in Trujillo by PNP and NGO representatives in 2003.

Although there were no authoritative estimates on the extent of trafficking, there were reports that persons were trafficked from and within the country.

Trafficking to Spain and, particularly, to Japan operated through organized criminal networks.

Internal trafficking was a far greater problem. NGOs and international organizations maintained that significant domestic trafficking occurred, particularly to bring underage women from the Amazon district or the sierras into the cities or into mining areas to work as prostitutes or to work in homes as domestics. This trafficking took place through informal networks that could involve boyfriends and even the families of the young women victims.

The government coordinated its antitrafficking activities with NGOs. A Catholic order of nuns, the Sisters of Adoration, operated 3 programs for underage female prostitutes, a live-in center for approximately 75 girls (and 20 children of the victims) in Callao and 2 other walk-in centers in Lima. All facilities offered medical attention, job training, and self-esteem workshops in an attempt to remove underage girls from the streets. The government's Institute for Adolescents and Children provided the Adoring Sisters with the live-in facility and paid for utilities and food.

The International Migration Organization operated a hot line within the Ministry of Interior to receive information on incidents of trafficking in persons as well as promoted information campaigns and training of government officials in trafficking issues.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and provides for "protection, care, rehabilitation, and security." The law also mandates that public spaces be barrier-free and buildings be architecturally accessible and provides for the appointment of a disability rights specialist in the human rights ombudsman's office.

Despite an increased focus on persons with disabilities, the government devoted few resources to efforts in this area. Many persons with disabilities remained economically and socially marginalized.

Although the law prohibits discrimination in the workplace, it does not specify sources of funding for programs to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access for persons with disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recordings for the blind. On May 25, the government published a law that required public organizations and universities to make their Web pages usable by blind persons employing software that would read aloud web page content. The law established a period of 120 days for these institutions to implement the necessary changes or face a \$2 thousand fine (6,440 soles). Observers worried that the law, while well-intentioned, might not be enforced.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Some private companies operated programs to hire and train persons with disabilities, and a private foundation provided small loans to persons with disabilities to start businesses. Nevertheless, such persons faced discrimination by potential employers.

National/Racial/Ethnic Minorities

The law provides all citizens equality before the law and forbids discrimination, including for reasons of race, origin, and language. The law criminalizes racial discrimination. The country's population included several racial minorities, the largest of which were persons of Asian and African descent. Blacks tended to be concentrated along the coast, often faced discrimination and social prejudice, and were among the poorest groups in the country. Black civil rights groups contended that official surveys and censuses did not accurately reflect their numbers.

Blacks generally did not hold leadership positions in government, business, or the military. Both the navy and the air force were believed widely to follow unstated policies that minimized the number of blacks in the officer corps. Although the law prohibits newspaper employment advertisements from specifying the race of the candidates sought, NGOs alleged that employers often found discreet ways to refuse jobs to blacks or to relegate them to low-paying service positions. Employers frequently required job applicants to submit personal photos to ensure that they had the correct "presence" for desired jobs. While the law prohibits various forms of discrimination by retail establishments against prospective customers, the law did not deter discriminatory practices. Blacks often were portrayed unflatteringly by the entertainment industry as individuals of questionable character or as comedic stereotypes.

During the year civil society elements and the government cooperated to limit discrimination based on color. The Lima-based human rights coordinator formed an antiracism working group composed of several human rights NGOs. The group carried out demonstrations, published articles and, in March, highlighted companies that used racist and socially excluding images in advertising.

On August 26, a special consumer rights court fined a Lima-based upscale disco for practicing racial discrimination against consumers by denying access to the facility to some citizens based on their appearance. The ruling required follow-up investigations to assure that the disco did not resume discriminatory practices.

Indigenous People

Although the law prohibits discrimination based on race and provides for the right of all citizens to speak their native language, most indigenous people and mestizos with indigenous features faced pervasive societal discrimination and prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision-making directly affecting their lands, culture, traditions, and the allocation of natural resources. Pervasive discrimination and social prejudice intensified perceptions of inferiority and second-class citizenship. Many indigenous people lacked basic identity documents that normally would identify them as full citizens and enable them to play an active part in society (see section 5, Other Societal Abuses).

Other factors contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and inadequate communications infrastructure in the highlands and in the Amazon jungle region made political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limited the access and participation of indigenous people in

society. The UN Children's Fund (UNICEF) reported that indigenous people in rural areas did not have equal access to public services, particularly health and education: 90 percent lived in poverty; only 39 percent completed primary school; and there were higher child and maternal mortality in indigenous areas, where only 20 percent of births took place in public health centers.

The indigenous population of the Amazon region, estimated at between 200 thousand and 300 thousand persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the indigenous communities had a spiritual relationship with their land, and the concept of land as a marketable commodity was alien to them. Nevertheless, according to the director of the human rights ombudsman's Native Communities Program, the only right still statutorily set aside for this indigenous population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands were not prohibited.

Indigenous groups continued to resist encroachment on their native lands. Many indigenous people did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the state; this problem led to conflicts between mining interests and indigenous communities.

On April 15, President Toledo signed a decree creating the National Institute of Development for Indigenous Peoples (INDEPA), which replaced the National Commission on the Amazon Region and Indigenous and Afro-Peruvian Affairs. INDEPA would promote government policies on the rights of indigenous people and coordinate between the government and indigenous organizations. INDEPA has ministry-level status and would be directed by a government council made up of representatives from different ministries, NGOs, and representatives elected by indigenous communities. Unlike its predecessor, INDEPA would have its own budget.

The Shining Path continued to be a leading violator of the rights of indigenous people. The terrorist group coerced indigenous peasants into joining its ranks and demanded war taxes. Terrorist pressure on indigenous communities continued during the year.

Other Societal Abuses and Discrimination

The law provides all persons with the right to a name, nationality, and legal recognition, and the exercise of civil, political, economic, and social rights; however, sources estimated that more than 1 million undocumented citizens, including at least 312 thousand women, had no identity documents and thus were unable to avail of these rights. An estimated 15 percent of births were unregistered, and 95 thousand persons a year were born without a birth certificate. Poor indigenous women and children in rural areas were highly overrepresented among those lacking basic identity documents.

Undocumented citizens were marginalized socially and politically and had difficulties accessing government services. They also faced barriers to registering their children, becoming candidates for political office, or holding title to land and homes.

One of the most significant obstacles to obtaining a National Identity Document (DNI) was the requirement to present supporting documents, such as a birth certificate and a public

utility receipt, to DNI authorities. Women in rural areas who did not give birth at health establishments did not receive the certificate of live birth required for obtaining the birth certificate. These women also faced obstacles in retroactively obtaining a birth certificate. In an effort to lower infant mortality, the Ministry of Health fined women who did not give birth in clinics or hospitals. In many rural areas, these women could not pay the fines and, consequently, did not register their children.

On February 17, MIMDES, the National Office for Registry and Identification, the National Institute for Adolescent and Child Welfare, various utilities, the Catholic Church, and a variety of private companies, began the "National Crusade for the Right to a Name." The campaign would raise parents' awareness about the importance of getting birth certificates for their children. The coalition also carried out numerous events dedicated to public education and the training of local officials to promote universal birth registration. The coalition noted that an additional 21 thousand births were registered as the result of its activities.

Despite the absence of formal prohibitions, homosexuals faced extensive discrimination. There were indications during the year that homosexual rights gained a higher profile. On July 16, several hundred lesbians, homosexuals, and bisexuals marched in downtown Lima for the fourth consecutive year. Congresswoman Cecilia Tait, author of a draft law prohibiting sexual discrimination, addressed the marchers. Press reports announced the formation of a group of parents of homosexuals designed to promote understanding of homosexual family members and to provide mutual support.

Section 6 Worker Rights

a. The Right of Association

Although the law provides for the right of association, worker rights advocates claimed that the laws were overly restrictive. Judges, prosecutors, and members of the police and military were not permitted to form and join unions. Approximately 5 percent of the formal sector workforce of 8.5 million belonged to organized labor unions.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or non-membership.

While the law regulates the hours for and established fundamental rights for domestic workers, the Ministry of Labor's limited ability to inspect conditions minimized the law's effect.

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. Representatives could participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition union officials claimed that, as the law prohibits temporary workers from participating in the

same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. The law restricts the number of temporary workers hired to 20 percent of a company's work force, although labor advocates claimed that some companies did not comply with this limit.

The law provides for the right to strike, and workers exercised this right in practice. The law restricts unions that represent workers in public services deemed essential by the government from striking and requires strikers to notify the Ministry of Labor in advance of their intention to carry out a job action. According to the Ministry of Labor, there was a single legal strike and 45 illegal strikes between January and August. Labor leaders alleged that it was difficult to get approval for a legal strike and believed that the Ministry of Labor was reluctant to do so for fear of hurting the economy.

There are four export processing zones (EPZs). Special regulations for the EPZs provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand.

c. Prohibition of Forced or Compulsory Labor

While the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred.

Narcotics traffickers and Shining Path terrorists continued to hold indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (see section 5). There were also reports that illegal loggers employed forced labor in the Amazon region.

d. Prohibition of Child Labor and Minimum Age for Employment

Although the law restricts child labor based upon the age of the child, hours worked, and occupation, child labor remained a serious problem. In practice the law's provisions were violated routinely in the informal sector. 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 4 hours per day, and adolescents between ages 15 to 17 may work up to 6 hours per day if they obtain special permission from the Ministry of Labor and certify that they also were attending school.

In certain sectors of the economy, higher minimum ages were in force: age 15 in industrial, commercial, or mining work and age 16 in the fishing industry. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others, work at night, or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school.

In January the Ministry of Labor created a special Office of Labor Protection for Minors (PMT). The PMT issued permits authorizing persons under age 18 to work legally under conditions deemed acceptable by law. During the year the PMT granted 898 permits for jobs in the formal sector to children between the ages of 12 and 17.

INEI estimated that 2.3 million children between 6 and 17 years of age were engaged in work, of whom 1.9 million labored in the informal sector.

Forms of child labor varied. In rural areas, many children worked on small farms with their parents, in artisanal mining, or were sent to cities to work as domestics. In urban settings, children often worked on the streets, performing, selling candy, begging or shining shoes; or as scavengers in municipal dumps. Children on the outskirts of Lima also labored in brick-making.

Employers frequently required long hours from their live-in charges, compelling them to carry out comprehensive duties, including cooking and childcare, for wages as low as \$20 to 30 (69 to 103 soles) per month.

INEI estimated in 2001 that 80 percent of children who worked continued to attend school. In 2004 the Ministry of Education took measures to make education more accessible for children compelled to work by establishing an innovative tutor program, whereby teachers would be responsible for overseeing groups of students and dedicating after-class time to those whose work made regular attendance difficult. The ministry also made night schools more available to working children.

Although there were no reliable statistics on its extent, NGOs and other observers maintained that the country suffered a serious problem with adolescent prostitution (see section 5), as demonstrated by police raids on clandestine brothels.

The Ministry of Labor is responsible for enforcing child labor laws, and its inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Firms found guilty of violating child labor laws may be fined and have their operations suspended. Inspectors made more than 4,800 visits during the year and levied fines against 182 firms for violations of health and safety issues.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry of Labor reported that there were 236 labor inspectors, an increase of approximately 30 percent compared with the previous year. Inspections focused on the formal sector. The PNP and local prosecutors exercised law enforcement authority.

In addition to labor inspectors, the Offices of the Ombudsman for Children and Adolescents (DEMUNA) receive complaints regarding violations of child labor laws. More than one thousand DEMUNAs were located in communities throughout the country. MIMDES also maintained the "street educator" program, which sent specialized teachers to the streets to provide education and support to minors involved in public begging or working as bootblacks.

In August 2004 the government established the National Committee to Prevent and Eradicate Child Labor (CPETI) composed of representatives from a variety of ministries, NGOs, labor unions, and employers organizations as well as the ILO, the Pan American Health Organization, and UNICEF. During March and April, the group held an extensive series of regional consultations on its draft 10-year plan to eliminate child labor for children under 14 and to offer greater protections for children ages 14 to 18 who must work. In

September the government officially adopted the plan through publication of a supreme decree. In addition CPETI members carried out a number of campaigns to raise awareness of the problem of child labor.

In June MIMDES head Ana Maria Romero declared the remote village of Santa Filomena to be "the first mining community free from child labor." As part of a program that ran from 2000-05, Santa Filomena became the site of an experiment supported by the government, the ILO, and the NGO Cooperacion to establish a mechanized gold processing plant to replace children in the collection of gold scraps.

Narcotics traffickers routinely violated the rights of children in their efforts to produce illegal drugs. In August 2004 the National Commission for Development and Life Without Drugs estimated that five thousand children were employed in the illegal narcotics industry, an activity that exposed them to a variety of toxic chemicals that could have effects that range from death to damage to a person's nervous system, blisters, or burns.

e. Acceptable Conditions of Work

The law states that workers should receive a "just and sufficient" wage to be determined by the government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal." The statutory minimum wage was \$134 (460 soles), which did not provide a decent standard of living for a worker and family. The government estimated the poverty line to be approximately \$65 (224 soles) a month per person, a figure that varied by region. INEI's 2003 survey showed the poverty line at \$75 (258 soles) a month per person for Lima, compared with \$55 (189 soles) for the rural jungle. According to some estimates, as much as half the workforce earned the minimum wage or below because such a great proportion worked in the largely unregulated informal sector. The Ministry of Labor was responsible for enforcing the minimum wage, which was enforced in the formal sector.

The law provides for a 48-hour workweek and a weekly day of rest. The law requires companies to pay overtime to employees who work more than 8 hours and to provide 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.

While occupational health and safety standards exist, the government lacked the resources to monitor firms or enforce compliance. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were found to be in violation of the law, the government normally punished them with fines. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.