

# Beset Peru Seeks to Strengthen Courts Battle Against Guerrillas Reveals Judicial Shortcomings.

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President Alan Garcia's efforts to resolve the seven-year guerrilla war with the Maoist Shining Path have produced a parallel effort to strengthen the Peruvian judicial system.

Lawyers and politicians say the system has failed to convict suspected terrorists or to safeguard human rights of the populace generally. When a local think tank asked 1,000 well-off Peruvians recently to rank their nation's least effective institutions, the courts came in second, sandwiched between the social security system and the police.

"We're misusing a valuable political instrument in the fight against terrorism," said Peruvian Diego Garcia Sayan of the Andean Commission of Jurists here. "The state has to prove that it is capable of administering justice."

President Garcia, 38, of Peru's populist Aprista party, was elected two years ago. He made his mark internationally by limiting payments on the \$17 billion international debt to 10 percent of the annual gross national product. Incomes in this minerals-exporting nation of 20 million people are among the lowest in South America, and left-leaning leader has stressed the need for sweeping revision of many of its institutions.

As for the judiciary, in one of the most glaring examples of tardy justice, a Lima court last week finally issued a verdict on the notorious slaying of eight journalists and their guide in the isolated mountain community of Uchuracai as the guerrilla war began in the Andean department of Ayacucho four years ago.

In January 1983, the eight Peruvian journalists and their guide set off for that community to investigate reports of clashes between guerrilla units and peasant bands. On arriving, the journalists were detained by local leaders. After a village council, the intruders were stoned and hacked to death, apparently mistaken for collaborators with guerrillas.

The killings were widely depicted here and abroad as a consequence of the national security forces having encouraged vigilante justice to thwart the rebels in the highlands. Despite a prompt government-sponsored inquiry, headed by novelist Mario Vargas Llosa, the local military and court authorities took few measures to bring the killers to trial.

Meanwhile, the community of Uchuracai virtually disbanded and most of its members were listed as killed or missing. Three were arrested, however,

and a court now has sentenced them to six years to 10 years' imprisonment on homicide charges.

The three-judge court also ordered the indictment of Army Gen. Clemente Noel, who was in command of the Ayacucho emergency zone at the time of the massacre, for obstruction of justice and abuse of authority. The court said, "The Political Military Command did not have the slightest interest in investigating the Uchuraccai case or detaining" the suspects.

Vargas Llosa's internationally circulated report had indicated there was no direct military involvement in the case. The court's findings now question that conclusion and suggest a possible cover-up of evidence. Noel's case is now before a civilian court.

Although the Uchuraccai case arose before escalation of violence by the Shining Path in the central Sierra, a similar trail of frustration has followed law enforcement agencies' and the courts' efforts to get convictions of suspected terrorists.

Government figures indicate that more than 5,000 people have been picked up on terrorism charges in the past seven years. Less than 100 have been convicted and are serving sentences, 300 await trial, and the rest have been released, human rights sources say.

Part of the difficulty in getting convictions is the flimsy evidence and investigative work done by the police, said Garcia Sayan. "Police write their reports with an eye on publicity and don't prepare the cases to stand up in court," he added.

Chief Justice of the Supreme Court Vicente Ugarte del Pino acknowledged recently that many cases of alleged terrorism had to be thrown out because they are based on confessions extracted under "physical or psychological duress" without the presence of prosecutors or defense lawyers.

Judges also complain that they are receiving death threats. In late February, two terrorists tried to blow up the car of Attorney General Cesar Elejalde.

Many in the police and the military clearly have lost confidence in the courts. Police officers currently are facing courts-martial for the killing of 100 inmates in cold blood at Lurigancho prison last June after a Shining Path-organized mutiny. A government official is reported to have said the police killed the prisoners because they would probably have been freed by the courts.

Congress is currently preparing a legislation along the lines advocated by President Garcia to improve the processing of terrorism cases. A major innovation is the establishment of special tribunals, copied after the Italian experience with the Red Brigades and the Mafia.

The bill's sponsors say it would allow judges and prosecutors to work more closely with police in investigating cases, provide for more specialization and speed proceedings. Judges and prosecutors assigned to these courts

would get police protection and higher salaries. A lower-court judge currently makes about \$400 per month.

The proposal for special tribunals has brought a sigh of relief from human rights advocates because the alternative, proposed by the most conservative judges and politicians, was to hand over all terrorism cases to courts-martial.

Human rights groups and the Catholic Church representatives say that the courts have been ineffectual in correcting human rights violations, which can range from arbitrary arrest to summary executions such as at the Lurigancho prison. A report by the United Nations Commission on Human Rights on Peru recently described the courts as "ill at ease with habeas corpus proceedings, which meet with lack of cooperation" from the military in the Ayacucho region.

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