



UPDATE EXTRA

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February 2009

Truth & Reconciliation Commission Five Year Anniversary

The aims of the PSG are to promote the rights and interests of the people of Peru and in particular the poorest sectors.

What lessons have been learnt?

Preface

This evaluation by the Peru Support Group of the five years since the publication of the Truth and Reconciliation Commission's final report and recommendations on the period of internal armed conflict suffered by Peru between 1980 and 2000, is a timely reminder to the international community that despite the economic dynamism that the country has experienced over recent years at the macro level, exclusion continues to be prevalent. The actors may have changed, but the political landscape remains unchanged.

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There appears to be a lack of political will amongst the country's politicians to move forward with the recommendations of the report. I am disappointed that the State has still not begun any of the institutional reforms recommended, as by failing to address these issues the country still resembles the Peru of

30 years ago. I fear this could lead to outbreaks of violence at any given moment.

Neither of the governments that have held power since the publication of the report made or attempted to make thus far the recommended changes to the judiciary, the education system or the organisation of the armed forces.

I end my analysis by noting that five years is too long for no substantial decisions to have been made let alone adopted. But then again, five years is not long enough to change the mental structure of a country. So it's too soon to write off the work that constituted the final report of the TRC as change is not only still desirable, but also possible.

Salomón Lerner Febres
Former president of the TRC
Lima, 2008

Inside this issue:

<i>Preface</i>	1
<i>Introduction</i>	2
<i>Why did Peru need a TRC?</i>	3
<i>Reconciliation & Justice</i>	4-5
<i>Institutional Reforms</i>	5-6
<i>Reparations</i>	6-7
<i>Forensic/Anthropological Programme</i>	8
<i>Case Study: Putis</i>	8
<i>Distribution of the Report</i>	9
<i>Case Study: ANFASEP</i>	9
<i>Conclusion</i>	10-11
<i>References</i>	12

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...despite the ongoing (2009) high profile trial of former president Alberto Fujimori, human rights violations were committed throughout the mandates of the three governments in power during the 20-year period of conflict

The final report of the Truth and Reconciliation Commission (TRC) laid much of the blame for Peru's spiral towards the internal armed conflict that it lived through (1980-2000) on the economic inequality, discrimination and exclusion of the vast majority of Peruvians. Furthermore, the report's findings showed that many of the victims came from Peru's 'hinterlands', or rather poor, rural, Quechua-speaking communities in the high Andes, a region where there was little or no state presence. It should also be noted that, despite the ongoing (2009) high profile trial of former president Alberto Fujimori, human rights violations were committed throughout the mandates of the three governments in power during the 20-year period of conflict.

The recommendations made by the TRC in the final report were an attempt to address these wrongs as part of the national healing process, which was also seen as a means to avoid such atrocities ever happening again.

Fast forward five years (as the final report was published in 2003), and Peru finds itself back under the command of a president, Alan García, whose first term in office from 1985 to 1990 allegedly pushed the country further into the hands of subversive groups and certainly his unorthodox economic policies exacerbated the inequality felt not only by the most vulnerable of society, but also by ordinary Peruvians who didn't know how much their currency would be worth from one minute to the next. In an opinion poll carried out by Lima-based *Ipsos Apoyo Opinión y Mercado* in January 2009, García saw his support stand at 28% (although this is not as low as it had been), partly because of the discontent felt over economic growth in the country.

Nevertheless, the president's domestic and international supporters continue to heap praise on his government due to his very orthodox management of the national economy, in stark contrast to his disastrous efforts in the 1980s. The strength of the national economy, which grew by some 10% in the first six months of 2008, thanks in part to continued high international minerals prices, has often been quoted by various actors who describe Peru as a stable, trouble-free South American country. His detractors, however, point

to growing levels of inequality, and linked to this are increased incidences of social protest as many sectors of society are unhappy at the lack of any economic trickle down.

Added to the aforementioned problems are the issues of García's vision of a development model based on foreign investment, as outlined in a high profile newspaper article, *El Perro del Hortelano* (Dog-in-a-Manger), and the creation of controversial legislation which would facilitate the sale of communally-owned land by a simple majority vote in a community assembly, rather than the usual two-thirds required, sparking fears that this would lead to a land grab by mining and energy companies, especially in the Amazon rain forest. Although the proposed legislation was overturned by Congress in August 2008 following protests by indigenous groups, it would have contravened the International Labour Organisation's (ILO) Convention 169 on Indigenous rights, to which Peru is a signatory.

Furthermore, aside from the trial of former president Alberto Fujimori, the investigation of cases since the publication of the TRC's final report seems to have stagnated, in particular those which correspond with President García's first term in office. Since his return to power in 2006, there has been no mention of human rights in García's annual address to the nation. It should also be noted that in spite of the initial conciliatory mood at the time of the report's publication, former President Alejandro Toledo can also be accused of dragging his heels over the implementation of the TRC's recommendations.

What are Truth & Reconciliation Commissions?

Truth and Reconciliation Commissions (TRCs) are an approach used by society to deal with the legacy of widespread violence and human rights abuses. They are an attempt to provide details of the past but also an attempt to move from a period of violence and repression towards peace, democracy, the rule of law and respect for individual and collective rights. In making this shift societies must confront the painful legacies of the past, reconcile communities, restore a sense of civic trust and prevent a relapse to the violence of the past.

TRCs have been established in many countries, such as:

Argentina (1983)
Chile (1990)
El Salvador (1992)
Guatemala (1994)
Sierra Leone (1999)
South Africa (1995)
Peru (2001)
East Timor (2005)

Why did Peru need a Truth & Reconciliation Commission?¹



From 1980 to 2000 Peru suffered an internal armed conflict that inflicted an unprecedented level of political violence on the country. Within this situation assassinations, kidnappings, forced disappearances, torture, illegal detentions, serious crime and human rights violations became commonplace. These crimes were committed by both the rebel groups, Shining Path (or to give it its full name the Communist Party of Peru-Shining Path, PCP-SL),² by the Túpac Amaru Revolutionary Movement (MRTA),³ and by the military under three successive governments.

In 1980, when Peru held its first free elections following twelve years of military rule, the Shining Path launched its violent campaign against the state. The ideology of the Shining Path, based on Marxism-Leninism-Maoism, quickly took an extremist turn around the founder of the movement, Abimael Guzmán. The Shining Path focused its campaign on rural areas, where dissent led to individual killings, massacres and the razing of entire communities.

From 1984 the violence unleashed by the Shining Path was bolstered by the emergence of the Revolutionary Movement Túpac Amaru (MRTA). Although in contrast to the Shining Path the MRTA took responsibility for their actions and refrained from attacking the defenceless, they did carry out assassinations and systematic kidnappings.

The TRC was established to clarify what exactly happened during the aforementioned internal armed conflict and to apportion responsibility not just to those who committed the crimes but also to those who ordered them, including both State and non-State actors.

The TRC concluded that of an estimated 69,000 people killed or disappeared over the 20 year period, 54% were victims of the Shining Path (PCP-SL), 1.5% of the killings were carried out by the MRTA, and the remainder was victims of the police, army and navy or peasant militias.

As well as addressing the crimes of the past the TRC aimed to facilitate the process of peace and reconciliation

amongst all Peruvians. The main bulk of its efforts comprised holding public meetings, collecting testimonies and making forensic investigations, which culminated in the publication of a report and recommendations on 28th August 2003.

The Story of the Commission⁴

The first steps towards creating a TRC were taken by the interim government of Valentín Paniagua when it took office in November 2000. Paniagua replaced former president Alberto Fujimori (1990 - 2000) after he fled the country under a shroud of controversy. The Commission would not have happened but for the fall of Fujimori's regime, and it was born out of the spirit of restoring and deepening democracy and adherence to the rule of law.

Not only was the public mood at the end of 2000 one of hope for the future of Peruvian democracy, it was also a time when senior commanders of the armed forces were put under arrest for their complicity in the corrupt dealings of the Fujimori regime. Their authority undermined, the armed forces were no longer in a position to block a thorough investigation. The country's political parties - who might also take much of the blame and therefore would have been reluctant to see the Commission go ahead - were also debilitated by ten years of Fujimori's politics (known as '*fujimorismo*'). For a short period at least, civil society appeared to be in the ascendant.

As well as making important recommendations on how to heal the wounds of the past and achieve lasting reconciliation, the TRC's report is in itself a monumental contribution to the writing of Peruvian history. It assembles the evidence on a period in history where otherwise there would have been little archival documentation and which historians have long tended to ignore. Not only does it seek to elucidate human rights violations over a twenty-year period in areas that are geographically remote, but it conveys the political, social and economic context in which these events took place.

The Objectives of the TRC:

1. To **analyse the political, social and cultural conditions** and patterns of behaviour that, from society and the institutions of the state, contributed to the tragic situation of violence experienced in Peru.
2. To help in the clarification by the competent judicial institutions of the **crimes and human rights violations perpetrated** by terrorist organisations or agents of the state, seeking to determine the whereabouts and situation of the victims and identifying to the degree possible those presumed responsible.
3. To produce proposals for making **reparation and restoring dignity** to the victims and their families.
4. To recommend **institutional, legal, educational and other reforms** as guarantees that such events would never be repeated, these being considered and implemented through legislation and other political and administrative actions.
5. To establish mechanisms for the **implementation of the Commission's recommendations**.

Source: Truth and Reconciliation: The Findings of Peru's Truth and Reconciliation Commission (2004), The Peru Support Group.

Recommendations:⁵

Reconciliation and Justice

The Main

Recommendations of the TRC

As part of the final report, the TRC made a series of recommendations. These were based around five key areas:

1 Reconciliation with justice

2 Institutional reforms

3 Reparations to victims & victims' families

4 A forensic programme to deal properly with exhumations

5 A follow-up to the report itself to ensure that the recommendations are implemented

The full recommendations of the Peruvian TRC appear in Vol. IX of the Final Report, available in Spanish on the TRC website (www.cverdad.org.pe). An English summary is available on the following link:

<http://www.ictj.org/static/Americas/Peru/TRC.FinalReport.eng.pdf>

The TRC states in its report that justice is necessary in order to achieve reconciliation. Furthermore, impunity is non-democratic and is contrary to the rule of law and those accused of crimes against humanity should be punished.

However, since the publication of the report the Office of the Human Rights Ombudsman has warned that the prosecution of those accused of human rights violations has become somewhat stagnated and taken some worrying steps backwards. In the section on Reconciliation and Justice, it found that the Executive approved legislation in October 2006 whereby the State would pay the legal defence costs of any member of the armed forces or national police force accused of human rights violations. This contrasts with the lack of access to legal defence for many of the civilian victims of human rights abuses due to poverty, geographic and social exclusion. In August 2008, prime minister Jorge del Castillo stated in an interview with national newspaper, *La República*, that it wasn't up to the government to allocate a lawyer to every victim, that civil society, or rather the NGOs, had a role to play in this respect.

Some of the cases reported by the TRC

Of the 52 cases reported by the TRC, 25 have been under preliminary investigation since 2001. 30 cases are currently under full judicial process.

IACHR cases

In February 2001, the Peruvian State came to an understanding with the Inter-American Court on Human Rights (IACHR) that the latter would review 159 cases. In 2008, 91 of these cases were at the preliminary national stage, another 36 were underway, six had already had a sentence passed and six had been shelved.

Exhumations

Although the TRC gave details on the existence of 4,644 mass graves in Peru, no significant advances have been made over the last five years, with the exception of the Putis case (see p. 8).

According to the Peruvian Institute of Legal Medicine's Specialist Forensic team, 77 exhumations, which recovered the

remains of 505 victims, were carried out between 2001 and 2007.

Fujimori's Trial

Following his extradition from Chile in September 2007, the 'mega trial' of former president Alberto Fujimori began on 10th December of the same year. Seven charges were brought against him, including two for human rights abuses: *Barrios Altos* and *La Cantuta*.

In December 2007, Fujimori was found guilty of abuse of power for entering the flat belonging to the ex-wife of his former intelligence chief Vladimiro Montesinos. He received a prison sentence of six years and was fined US\$92,000 (£62,000).

Achievements

1) The National Penal Court has passed sentences for human rights violations; particularly significant have been the sentences brought in cases such as: the Pichanaki massacre; Chuschi (the forced disappearance of officials); the disappearance of university student Ernesto Castillo Páez; and the murders of journalist Hugo Bustíos and Efraín Aponte Daza, amongst others.

2) In 2006, the National Court for Terrorism found the Shining Path leadership guilty for the Lucanamarca massacre, and leader Abimael Gúzman was given a maximum life sentence.

3) In April 2008 the Anti-Corruption Court passed sentence against former members of the Colina group and other military personnel involved in the Cantuta case. The most significant sentence was that given to Julio Salazar Monroe (former intelligence chief), who was sentenced to 35 years in jail.

Obstacles

1) Due to delays in preliminary investigations - many cases have not progressed beyond the initial stage and no formal charges have been brought. Of the 47 cases investigated by the TRC and handed over to the Public Ministry at the end of its mandate, only 26 have begun formal proceeding.

2) The lack of drive by the public prosecutors to move forward with the cases.

3) Specialist criminal prosecutors have

Recommendations: Reconciliation and Justice



given priority to ordinary cases ahead of human rights cases.

4) The absence of both an investigation plan and an adequate prosecution investigation strategy.

5) Excessive delay in preliminary investigations; a legal timeframe should be imposed.

6) Refusal by the Ministry of Defence to provide information regarding the identities of military personnel involved in

human rights violations, such as the Putis case.

7) Some 76% of victims have no legal defence.

8) The absence of a national system for the protection of victims, witnesses and human rights defenders.

The National Human Rights Coordinator (CNDDHH) registered 53 cases of threats, harassment and defamation of the families of victims, witnesses, lawyers and human rights organisations.

Reactions to the 5th Anniversary

Rosa Villarán who leads the national human rights movement *Never Again!* (*Para Que No Se Repita - PQNSR*) explains how her husband was murdered in the early 1980s in the town of Ayacucho.⁸

She continues to fight for those who committed crimes to be put behind bars and commenting on the significance of the trial of former president Alberto Fujimori, she says that it "is very important symbolically because it reminds the world that, whoever you are, you can be put on trial for human rights abuses".

Recommendations: Institutional Reforms

The TRC recommended institutional reform, as a preventative measure, to ensure that the events that led to the violence in the 1980s and 1990s would never be repeated. The CNDDHH reports limited progress in the institutional reform of the armed and police forces, the judicial system, the education system and the presence of State services for the zones affected by violence during the armed conflict.⁶

As the Human Rights Ombudswoman, Dr. Beatriz Merino, points out in an analysis of the last five years, little has been done to address the conditions that are believed to have led to the violence experienced in Peru. The exclusion of many Peruvians persists and State presence throughout the country is still lacking. In the administration of justice, delays continue to exist, together with limited access to justice for all. A major obstacle in this area is the recent law on the organisation and functions of the jurisdiction of the military police (*Ley de Organización y Funciones del Fuero Militar Policial* - 29182). Dr. Merino states that such a law doesn't guarantee either the independence or the impartiality of military jurisdiction with respect to the guarantee of due process.

The historical relationship between political power and the armed forces has contributed to the creation of significant areas of autonomy for the armed forces. In 2000, under Paniagua's transitional government, one of the main goals was to form a democratic model for the armed forces in which political authority would define, direct and supervise the creation of defence policy, and would, at the same

time, be accountable to the population.

The TRC recommended institutional reforms to prevent human rights violations from occurring in the future. These included, for example, new regulations over the powers of the armed forces during states of emergency. This recommendation has not been implemented at all but rather has been reversed: although a legislative decree limited the power of the armed forces during states of emergency in 2003, a new law was introduced in 2007 which afforded more powers to the army without declaring a 'state of emergency'. For example, the military would be allowed to take command over local police in cases of public disorder which contravenes various fundamental rights and democratic principles set out in the Constitution and in the American Convention on Human Rights.⁷

Generally, legislative initiatives during 2008 showed an increase in norms which authorised the employment of the armed forces in matters of internal order, often violating the constitutional framework and democratic principles.

Government of Alejandro Toledo

A new law (*Ley 27860* - Law of the Ministry of Defence, Nov 2002) laid the foundations to place the Ministry of Defence at the head of the chain of command for the defence sector. Despite these modifications to the institutional design, the decision-making process and its supervision by the political authority continued to be weak.

Reactions To The Fifth Year Anniversary

Miguel Jugo, a director of prominent Peruvian human rights organisation APROPDEH, said that it was particularly striking that, despite the findings of the TRC, the State continues to be absent in much of the country and this is clearly illustrated by the level of social conflict that Peru continues to suffer (for the latest information on these conflicts:

www.defensoria.gob.pe/conflictos-sociales/home.php).

Government of Alan García

Only a month after taking office, García announced the restructuring of the Ministry of Defence for a period of 300 days. The aim was to evaluate, analyse, and propose the implementation of reform, mainly because of the overlap in competencies and functions between different parts of the ministry.

The National Human Rights Coordinator (CNDDHH) stated in its March 2008 report

to the IACH that institutional design has progressed and reached a modern status, which sets formal conditions so that the Ministry of Defence has the capacity to define, supervise and control the implementation of defence policies to be exercised by the military institutions.⁹ It is important to continue with this policy to sustain the modernisation of the defence sector.

Recommendations: Reparations¹⁰

The Truth and Reconciliation Commission recommended the creation of an Integral Reparations Plan (*Plan Integral de Reparaciones* - PIR). Although no amount of money can replace the loss of a loved one, some kind of financial recompense could be used by victims and victims' families to help them access justice, and to support their material, moral, mental and physical recovery.

Legislation was introduced to create the framework for the PIR (Law 28592) and the two national bodies responsible for its implementation: the Reparations Council (*Consejo de Reparaciones*) and the High Level Multi-Sectoral Commission (*Comisión Multisectoral de Alto Nivel* CMAN). It also defined the concept of victims and beneficiaries and the types of reparations: education; health; symbolic reparations; housing solutions; and economic reparations.

Reparations Council

Peru's National Human Rights Coordinator (CNDDHH) reported that the accreditation process for the elaboration of a Victims' Registry, under the responsibility of a Reparations Council (established by the regulation in 2006), had begun.¹⁰ However, the CNDDHH raised concerns regarding a campaign to discredit this process, noting that the work of the President of the Reparations Council has been challenged on the ground that the programme is providing reparation to "terrorists". Despite certain deficiencies, this is the one area in the TRC process that has advanced, albeit

slowly. Next steps should include speeding up the process, and putting an end to postponing both the payment of individual reparations and start of the victims' Mental Health Plan. In particular it is vital that the defence sector collaborates by sending information about the victims of the forces of law and order so they can be included in the register of victims. The CNDDHH highlighted the importance of the Government's support to strengthen and protect the Reparations Council from attempts to discredit its work.

Reparations Council - Achievements

- 1) In July 2008, the first two volumes of the register were completed (one for individuals and one for communities).
- 2) The Regional Government in Huanavelica is compiling a regional victims' registry which will be a forerunner to the official one.
- 3) The Regional Government of Apurimac has handed its victims' registry, recording 10,805 victims, over to the Reparations Council.
- 4) Satipo (Junín) and Huanta (Ayacucho) are both starting registers.

Reparations Council - Obstacles

- 1) Delay in granting individual reparations, due to the delay in compiling the Victims' Registry.
- 2) Lack of resources granted by Central Government to the Reparations Council.
- 3) Difficulties encountered by the Council in registering victims in more isolated areas due to budgetary constraints and potential

Recommendations: Reparations



victims' lack of official identification documents.

4) Lack of information on the process of compiling the Victims' Registry for both the victims and general public.

High Level Multi-Sectoral Commission¹¹

The High Level Multi-Sectoral Commission (CMAN), the body set up to manage collective reparations to communities affected by the violence, has encountered difficulties in implementing a reparation protocol that can distinguish specific reparations programmes from other general development policies and activities. Many such difficulties can be related to the problems with decentralisation in Peru, primarily the lack of capacity at local and regional level. The aim of the collective reparations programme is to re-build the social link between State and Community, which had deteriorated and broken down following two decades of violence, or in some cases never had actually existed.

High Level Multi-Sectoral Commission - Achievements¹²

1) In 2007, CMAN allocated NS45 million (approximately £10 million) for collective reparations.

2) In 2008, CMAN prioritised 463 communities based on the Victims' Registry (Book 2) to proceed to the second phase of collective reparation.

3) In 2005, the transfer of NS10 million (about £2 million) from CMAN to different sectors within the framework of the PIR.

4) Creation of multisector reparations bodies in 11 regions to implement the PIR.

5) Regional Governments of Huancavelica, Apurímac and Ucayali have included the issue of reparations in their respective Concerted Development Plans.

High Level Multi-Sectoral Commission - Obstacles

1) In 2007, only 65% of projects were carried out.

2) Lack of wider distribution of information on the CMAN regarding reparations to regional and local authorities and the general public.

3) Lack of consultation on the selection of the communities who would receive reparations.

4) Insufficient technical assistance from the CMAN to local governments on how to create local management committees.

5) No multi-annual programme to implement the reparations.

6) Weak coordination of CMAN with regional multi-sector entities and insufficient commitment by regional and local governments to insure the inclusion of reparations.

7) Weakness in the legal process of selecting beneficiary communities needs to be addressed.

As for individual reparations, victims have only gained access to the Integral Health Insurance which covers basic aspects of physical health. However, this needs to be extended to cover mental health, at both community and individual level. This is urgent in the case of torture survivors who require complex treatments not covered by the basic health insurance.

Reactions to the 5th Anniversary

Lidia Flores helped found a movement to support the families of victims, ANFASEP, following the detention and subsequent killing of her husband, Felipe Huamán Palamino in 1984. They had five children.

Following the publication of the TRC's report, the victims' relatives were expecting both individual economic reparations and reparations in the form of improved health and education services. She doesn't believe that the collective reparations are really for the benefit of the victims and their families.

Reactions To The Fifth Year Anniversary Office of the Peruvian Human Rights Ombudsman

In her assessment of the five years since the publication of the TRC report, the Ombudswoman **Dr. Beatriz Merino** recognised the significant advances made in the fields of collective reparations, the victims' registry and certain areas of health. However, she acknowledged unresolved tasks such as the stagnation in bringing to justice those guilty of human rights violations; tasks which require collaboration between the State and civil society in order to lay the necessary foundations needed to achieve reconciliation in Peru.

Dr. Merino also referred to the unresolved tasks related to the consolidation of the country's democratic institutions.



Recommendations: Forensic/anthropological programme

The TRC confirmed 2,200 burial sites, and was aware of 2,444 more...

The development of a National Anthropological-Forensic Research Plan (*Plan Nacional de Investigaciones Antropológicas-Forenses*) was a central recommendation of the TRC. However, there is still no defined strategy. Delays have been put down to the requests made by prosecutors or judges investigating the cases who often don't take into account the availability of experts.

The state has intervened in only 70 cases since the publication of the TRC's final report. This is due to problems of co-operation between the Public Ministry, the Institute of Legal Medicine (IML) and civil society organisations involved. In particular,

there is a lack of co-operation to develop the investigations and a lack of information for victims' relatives and the NGOs that sponsor them amongst other issues.

The TRC confirmed 2,200 burial sites, and was aware of 2,444 more, although these had not been officially verified by the time the report was published.¹³ It recorded 8,558 disappeared people, a figure which rose to 12,027 following the contribution of statistics compiled by human rights organisations. When the TRC's mandate came to an end, civil society groups continued the work and the figure of verified burial sites rose to 4,014, with around a further 2,000 sites awaiting authentication.

Case Study: Putis

Putis, a community in the Santillana district of the Huanta province (Ayacucho) is an emblematic case of the serious human rights violations and crimes against humanity perpetrated during the conflict (1980-1992). Following the massacre it suffered at the hands of the army in 1984, the community became deserted and wasn't even included in Peru's 2001's Peace Census.

The Facts

Around 1983, the Shining Path established authoritarian control over the communities in the high Andes region of Huanta. In Putis, the *guerrilla* executed local authority leaders, accusing them of trying to confront them through the *Montoneras* (self-defence groups with basic weapons). This led community members to flee, forcing them to live far from the community to avoid contact with the military.

In November 1984, the Peruvian Army set up a military base in Putis, in turn demanding that peasants dispersed in high Andean areas should re-settle in Putis where they could register with the army as a requirement to be acknowledged as 'innocent'. According to the findings of the TRC, in December that year 123 men and women of different ages, including 19 children, were killed; although new evidence suggests that those numbers may be even higher.

The 2008 Findings

Since the TRC mandate came to an end in 2003, the Public Ministry's Institute of Legal Medicine has been carrying out exhumations in areas of suspected mass graves in the Central and Northern provinces of Ayacucho. However, it was only after the Peruvian Forensic Anthropology team (EPAF), a civil society non-governmental organisation which comprises Peruvian forensic experts, became involved in the case in May 2008 that key discoveries were made.

The exhumations of Peru's largest mass grave in Putis revealed the remains of 60 people, including 15 children. José Pablo Baraybar, director of the EPAF states: "We have found bullets inside the grave, underneath the bodies, which indicates that they were killed once they were in the grave". A total of 70 bullet shells have been found, and they match the Peruvian Army's weapons.

The events in Putis are symbolic of extra-judicial killings that took place in other parts of the country throughout the period of Peru's internal armed conflict. They were part of a systematic practice of human rights violations. As the final report of the TRC states: "An ethically healthy and politically viable country cannot be built on the foundations of impunity".

Based on an article by José Coronel Aguirre, Anthropologist (Ayacucho, Peru)



Source: BBC

Recommendations: Distribution of the Report



The PSG identified widespread dissemination of the TRC's final report as a key activity following its publication in 2003. Unfortunately, although the human rights ombudsperson also identified this as an important task to help conserve the country's historical memory, it has not been sufficiently undertaken. Society resisted facing the recent violent past. Despite this outlook, the ombudsperson still believes it

a necessary task to incorporate the theme of human rights and the contents of the TRC report into the national primary and secondary school curriculum as a means to reflect upon the respect for the rights of others, social discrimination and the need to develop values of equality and tolerance as the fundamentals to avoid the repetition of the violence previously suffered.

Case Study: "We Must Never Forget..." ANFASEP and the Museum of Memory in Ayacucho

Without organisations like ANFASEP, the work of the TRC would not have been possible. For the past 25 years, the National Association of Relatives of Abducted, Detained and Disappeared Persons of Peru (*Asociación Nacional de Familiares de Secuestrados, Detenidos y Desaparecidos del Perú* - ANFASEP) has been persistently demanding truth and justice for the victims of the political violence.

It began in 1983, during the first peak of the internal armed conflict in Ayacucho. A small group of indigenous women gathered in the City of Huamanga to protest against the detention and abduction of their sons and husbands by the military. Led by Angélica Mendoza Ascarza, who is 80 years old and is known affectionately as "Mama Angélica", the women organised numerous protest marches and vigils, carrying banners and photographs of their disappeared relatives. At the police station and the military barracks, they relentlessly requested information about the whereabouts of their loved ones. Climbing up and down the steep hills and deep ravines of the Andes, they searched for the bodies of their relatives. In doing so, the women continuously put themselves at risk of being detained, tortured and raped. Yet they did not give in, and over time more and more women joined ANFASEP. For a long time, the organisation had to hold secret meetings for fear of both the Shining Path and the military. Only a few courageous lawyers, local politicians and human rights organisations dared support the women.

Since then, a quarter of a century has passed. What began as a small, informal group has developed into an organisation with over 500 members. Most of them are Quechua-speaking women from the rural provinces of Ayacucho. All have lost close family members through the political violence. The majority still do not know what the military or the guerrillas did to their relatives and in which of the many mass graves their bodies were buried.

"We can never forget the violence we suffered and saw with our own eyes", says Lidia Flores, the chairwoman of ANFASEP. "Our children, however, were not yet born at that time, or they were too small to understand what was going on. We have to show and explain to them what happened so that they, too, will never forget. We must never forget, because otherwise the violence could happen again."

In 2005, ANFASEP launched the Museum of Memory (*Museo de la Memoria*) with a view to passing the memories of the eye-witnesses on to future generations. The Museum shows the two decades of political violence in Ayacucho from the perspective of the widows and orphans of ANFASEP. It commemorates their "disappeared" relatives and describes the development of their organisation. The construction of the museum, which ANFASEP members also use for their regular assemblies, was funded by the German Development Service (DED), the Association for Technical Cooperation (GTZ) and the German Embassy in Peru. DED experts also supported ANFASEP during the planning and implementation stage. ANFASEP members themselves, however, decided about the concept and contents of the Museum. The façade, interior design and artifacts of the Museum were created by local artists, some of whom are children of ANFASEP women. The museum is administered by board members and a number of ANFASEP youth, who also provide guided tours to visitors.

ANFASEP's Museum of Memory has contributed significantly to the emergence of a culture of remembrance in the Ayacucho region. Inspired by the Museum, other victims' organisations and rural communities have created their own museums or places of remembrance. In recent years, many indigenous people - artists and laypersons alike - have created poems, songs, paintings and sculptures as a means to process and publicly express their experiences of the political violence. These recent developments were triggered, or facilitated, by the TRC's final report and its dissemination in the rural provinces.

The development of a sustainable internal peace in Peru requires that the indigenous population of the Andes and the tropical lowlands be finally recognised and treated as citizens and fully-fledged members of Peruvian society. Will the women of ANFASEP live to see this? "We will keep fighting until our death", pledges Mama Angélica. The Museum of Memory continues to raise awareness amongst younger generations so that they continue ANFASEP's vital struggle for truth and justice.

By Dr. Cordula Strocka, Freie Universität Berlin

Conclusions

The danger is that by failing to push forward with the recommendations of the TRC, the country will waste the opportunity for positive change on a national scale...

At the time of the fifth anniversary of the publication of the TRC's final report and recommendations (August 2008), President García's popularity seemed to be continuing its downward spiral despite continued economic growth. Although he didn't refer to human rights specifically in his annual address to Congress on 28th July 2008, García did accept that the main challenge for his government was how to make the benefits of economic growth reach more than just the top 5% of the population. This will be even more crucial as Peru starts to feel the effects of the global financial crisis, particularly the drop in commodity prices, Peru's main source of export revenue.

During Alan García's 2006 presidential campaign, he pledged to continue with and strengthen Toledo's reforms and to develop the management capacities of those working in regional and local government. However, inherent problems remain, specifically around the area of management skills. For example, there seems little benefit in increasing local and regional budgets, which the APRA government has been doing, when there are no mechanisms in place to train staff how best to utilise such financial resources.

According to Peru's National Statistics Institute, poverty rates are still around 40%, of which 14% can be classified as extreme.¹⁴ The failure to redistribute can in part be blamed on the decentralisation process, as it was a rather rushed reform brought in by Toledo (2001-2006) on the basis of an electoral pledge he had made. Subsequently, former president Toledo started to lose interest as it became clear that he was unsure of the next stage of the process.

Social conflict is an increasing problem for García. On 9th July 2008 a general strike demonstrated the depth of feeling within the country. There have also been ongoing disputes related to land rights, particularly proposals by the government to reform laws enabling foreign investors to buy property titles in the Amazon and Andes, and protest around the issue of

water contamination. Furthermore, as a result of his development model, based on foreign investment, some commentators fear that García is creating the kind of polarised society that led to the internal conflict that broke out in the 1980s.

It is still relevant to talk about the work of the TRC and its final recommendations as the consequences of the internal armed conflict and the victims of past human rights abuses continue to inform both the present and likely future of Peru. Many unresolved problems identified by the TRC have yet to be addressed and consequently conditions exist for future outbreaks of violence. As the Ombudswoman identified in her analysis for the fifth year commemoration, reconciliation cannot exist with impunity, therefore those responsible for past human rights abuses must be brought to justice.

The danger is that by failing to push forward with the recommendations of the TRC, the country will waste the opportunity for positive change on a national scale and facilitate the integration of all excluded and marginalised people who suffered violence at the hands of both the terrorists and armed forces. The state is indebted to these people and it is its duty, whether or not it was in power during the period of violence, to rectify these wrongs, specifically through individual and collective reparations, and also by affording the victims and their families justice which would, at the very least acknowledge their rights as Peruvians.

However, as former president of the TRC Salomón Lerner outlined in his prologue to this report, five years should be a sufficient amount of time to push forward the recommendations of the TRC. However, as he emphasized, five years is too short a timeframe to change the national psyche in a country as diverse as Peru, particularly given the continuing problems that the country still faces. So it's too soon to confine the final report and recommendations of the TRC to the past, as change is both necessary and possible.

Reactions To The Fifth Year Anniversary

Vanessa Cantoral, representative of the victims' families, stated on the anniversary of the TRC report that one of the tasks that remains is the promotion and wider distribution of the TRC's report, which should never be forgotten and it should be shared with all Peruvians.

Conclusions



Political will for reconciliation is needed from both the current government and opposition leaders. The truth and reconciliation process didn't end with the publication of the report and for Peru to move forward and not repeat the mistakes of the past, political figures mustn't ignore the recommendations made.

However, judging by comments made on the occasion of the commemoration of the fifth anniversary of the publication of the report, there appears to be a lack of political will amongst the country's politicians to move forward with the recommendations of the report.

Neither of the governments that have held power since the publication of the TRC report made or attempted to make thus far the recommended changes to the judiciary, education or health. Alan García's government has still not begun any of the institutional reforms recommended, which could lead to outbreaks of violence at any given moment. The actors may have

changed, or at least changed their ideologies, but the political landscape remains unchanged.

To continue the process of **decentralisation**, particularly in promoting institutional reforms which would strengthen the management skills of regional and local governments. This is critical as although changes at national level are vital, this cannot be a substitute for what is happening or not happening at local level, particularly in the rural areas worst affected by the years of violence.

The fifth anniversary of the publication of the TRC report and recommendations serves as a reminder to the **international community** that despite the economic dynamism that the country has experienced over recent years at the macro level, exclusion continues to be prevalent. Such growth masks the underlying political, economic and social exclusion of many Peruvians, and in particular those from the poorest sectors.

Government Reactions to the Fifth Year Anniversary

Jorge del Castillo, former Peruvian prime minister stated, on the anniversary of the publication of the TRC report that the government "considers the work of the Truth and Reconciliation Commission to be important, and the government has been fulfilling its recommendations...". He said that the "TRC had performed important work that we respect".

Luis Giampietri, first vice-president, doesn't believe that the TRC's report has contributed to the peace process, saying that it has even distorted the facts of what occurred in the fight against terrorism between 1980 and 2000.

Antero Flores Flores Aráoz, Defence Minister, ruled out the possibility of an apology from the armed forces for excesses committed during the conflict saying that he didn't see any reason to apologise for the actions of others.

Members of the Commission

The president of the Truth and Reconciliation Commission was **Salomón Lerner Febres**, a philosopher and rector of the Catholic University (PUCP) in Lima.

The other eleven members were: **Enrique Bernales**, jurist, constitutional lawyer and former senator; **Carlos Iván Degregori**, author and anthropologist; **Gastón Garatea**, Roman Catholic priest and president of the Antipoverty Policy Forum; **Alberto Morote**, engineer and expert on Ayacucho; **Carlos Tapia**, Political researcher and analyst, expert on Sendero Luminoso; **Beatriz Alva Hart**, practising lawyer and a former congresswoman; **Sofia Macher**, former executive secretary of the National Human Rights Coordinator (*Coordinadora Nacional de Derechos Humanos*); **Santiago Antúnez de Mayolo**, Roman Catholic priest and ex-apostolic administrator of the Ayacucho Archdiocese; **Humberto Lay**, leader of the National Evangelical Council; **Rolando Ames**, sociologist, political scientist and former senator; and **Luis Arias Graziani**, retired airforce general and advisor to Alejandro Toledo.

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- 2 Sendero Luminoso - one of several Peruvian communist parties, is a Maoist guerrilla organisation in Peru. Its stated goal was to replace what it saw as bourgeois democracy with "New Democracy", or a perfect communist state.
- 3 Movimiento Revolucionario Túpac Amaru - MRTA) was a communist guerrilla movement active in Peru from 1984 to 1997 and one of the main actors in the internal conflict in Peru. Its stated goals were to establish a communist state and rid the country of all imperialist elements. The MRTA took its name in homage to Túpac Amaru II, an 18th-century rebel leader who was himself named after his ancestor Túpac Amaru, the last indigenous leader of the Inca people. Source: Wikipedia.
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- 5 The main sources of information in drawing up the evaluation of the last five years include: Peru's National Human Rights Coordinator (CNDDHH) submitted a report to the Inter-American Court of Human Rights in March 2008 as part of the follow-up to the recommendations (Informe Final Audiencia CRV CNDH); the UN's Universal Periodic Review on Peru from May 2008; and a report produced by Paz y Esperanza, CNR, PQNSR and the CNDDHH with an assessment of the five years since publication of the TRC'.
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Law 28592 (2005) Creation of the Integral Reparations Plan (PIR)

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Laws 25479 and 25492 - Amnesty Laws

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