



# Truth and Reconciliation: An Agenda for the Future

UK Parliamentary delegation to Peru 21-25 June 2004



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## PERU FACTS

**Size:** 1.28 million sq km

Peru is the third largest country in South America and is five times the size of the United Kingdom.

**Population:** 27.1 million (2003 est.)

Peru has an average rate growth of 1.39% (2004)

**People:** Around 50% of Peruvians are native Indians; some 40% are mestizos, persons of mixed white (mainly Spanish) and Indian background. About 7% of Peruvians are of white descent, and many of the remainder are of black African heritage. (Peruvian embassy website)

**Urban population:** 72.1% (2001)

**Poverty levels:** 54.8% of the population (2001), 24.4% in extreme poverty. In rural areas, 51.3% live in extreme poverty.

**Gross Domestic Product:** US\$ 53.6 billion (2000); US\$ 2091 per capita

**Foreign Debt:**

- » US\$ 27.7 billion
- » Budget for debt service (2002): US\$ 2 billion
- » Budget for education: US\$ 540 million
- » Budget for health: US\$ 370 million

**Official languages:** (% population over 5 years)

- » Spanish: 80.3%
- » Quechua: 16.2% (3,177,938)
- » Other languages: 3.0%
- » Foreign languages: 0.2%

**Links with the UK**

**British embassy in Lima:** [www.britemb.org.pe](http://www.britemb.org.pe)

**DfID Funding 2002-2003:** £3.4 million

(<http://www.dfid.gov.uk/sid2003/>)

NB: DfID funding is to be cut completely and the office closed in May 2005.

**Presidential visit to UK:** December 2002

**Bilateral agreements:**

UK-Peru Joint Action Programme

**Economic links:**

- » UK exports to Peru (2002) US \$ 74.2 million
- » Peruvian exports to the UK (2002) US\$ 873 million (90% minerals)
- » UK investment in Peru: Stock of US\$ 2.4 billion (21.8% of all registered foreign investment). Main sectors for British investments are mining, finance and industry.

## THE DELEGATES

**John Battle** is MP for Leeds West, former Minister of State at the Foreign Office and a long-standing member of the International Development Select Committee.

**Lord Alderdice** is an authority on psychological aspects of conflict and terrorism and until recently Speaker of the Northern Ireland Assembly. He is an honorary professor of San Marcos University in Lima, Peru.



# Truth and Reconciliation: An Agenda for the Future

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## INTRODUCTION

### ***Peru's Lost Lives***

A tiny procession followed the file of coffins of recovered remains through the streets to the enclosed square at Ayacucho Town Hall. These remains were to be returned to the bereaved families and properly buried at last in the town. Watching from the pavement, the pervading sense of separation and isolation was overwhelming. The rest of the population went about their own business and paid little attention to the coffins, the mourners or even the brass band that accompanied them. This group of Quechua speaking peasants who had come down from the villages was alone in its grief as if locked in the historical past.

Ayacucho was where the armed conflict in Peru, between the military and the "Shining Path" insurgents, started. It was the department worst affected by the violence in which an estimated 69,000 people lost their lives - forty

per cent of the population of the region. Yet reconciling the past conflict with the present reality of racial separation is a challenge that far transcends the remit of the Truth and Reconciliation Commission set up in 2001.

The Commission's enquiry into the causes of the violence and examination of human rights violations has been published, following visitations taking evidence throughout Peru. But the families of victims, who gave their testimonies as evidence, cannot believe that publishing a report, welcome though it is, is the end of the matter. The case for justice for truth and reconciliation cannot be closed until the report's recommendations are taken seriously and implemented.

The international community can help by pressing for action and implementation in solidarity with these people.



***Mourners at a ceremony for disappeared.***

***John Battle  
MP and Lord  
Alderdice***

Such action would bring hope and encouragement to Peru, enabling the whole country to address its past conflicts, and facilitating reconciliation with the present as well as possibilities for the future. This Truth and Reconciliation Commission is the most recent of more than twenty such commissions around the world and is part of a wider attempt by humanity to find ways of dealing with the pain and anguish which is the tragic legacy of violence. Success in this process of truth and reconciliation in renewing society in Peru, could contribute greatly elsewhere in the world, where others still face the challenge of owning up to their past in a way that liberates the future. Peru's lost victims must not now be discounted. They could be part of a new future, not only for Peru, but for a twenty-first century humanity still deeply scarred by the conflicts of the last century.





## BACKGROUND

For a long time the magnitude of the violence in Peru has been underestimated. The Truth and Reconciliation Commission (TRC) found that 69,000 Peruvians lost their lives between 1980 and 2000 as a result of a violent conflict between two guerilla organizations - Sendero Luminoso (Shining Path) and the Movimiento Revolucionario Tupac Amaru (MRTA) - and the security forces. This is more than twice the number previously thought to have died. Hundreds of thousands of others were forced to flee their homes in search of refuge. The death toll in Peru in these years overshadows those of higher profile conflicts such as in Chile and Argentina in the 1970s. Most of the victims were innocent people, caught in the cross-fire in this struggle for power and control in the central and southern Andes. They were mainly poor Quechua-speaking peasant farmers, whose families suffered immensely and whose communities were often destroyed.

The violence started in 1980 when Sendero Luminoso (an armed Maoist insurgent group) attacked voting installations in Chuschi, Ayacucho. Founded by Abimael Guzman, a philosophy teacher in the University of Huamanga in Ayacucho, Sendero professed a need for a "protracted people's war" to dismantle the bourgeois state in Peru. Sendero's strategy was based on a rural insurgency that would surround and finally subdue urban areas. Their plan was to force peasants into subsistence farming and cut food supplies to the cities. Support for Sendero had been built up in rural areas before any violent acts were committed.

*“The TRC found that 69,000 Peruvians lost their lives...more than twice the number previously thought to have died”*

Sendero appeared just as Peru was electing its first civilian government after 12 years of military rule. In 1979, for the first time illiterate people were given the right to vote. Prior to then, illiterate people, or those without official documents were treated as second rate citizens. In 1980 there were 2 million unregistered people, non-citizens. Today out of a population of 27.1 million there are still 1.5 million.

Affected peasant communities often found themselves attacked by both Sendero and the armed forces. Under President Fujimori many people were sentenced in court with faceless judges, who wore hoods to conceal their identity, and all cases involving terrorism were tried in military court.

Faced with the fear of attack, whole communities were forced to leave their homes. Many people in rural areas fled to areas of relative safety, often regional urban centres. The population of Ayacucho city nearly doubled between 1981 and 2001. A large number eventually sought refuge in the poorest neighbourhoods of Lima. Today the face of Peru has changed. Combined with economic migration Peru has gone from being a predominantly rural country - 70% of the population in 1980 - to predominantly urban - 70% urban by 2002.

Over the two decades different counter-insurgency tactics were employed by the Peruvian government to tackle Sendero but it was not until Guzman was captured in September 1992 that the violence began to tail off. Within a year of his capture, most of the Sendero leaders were in jail. Though Guzman had called for a ceasefire, a dissident faction of the organization kept up the military offensive.

At the time when the TRC was established in June 2001 Peru was enjoying a period of political optimism and found itself at a point in history where it was able to look back at the previous two decades and ask what had really happened. A massive public scandal had brought an end to President Fujimori's authoritarian and increasingly corrupt regime. Hundreds of leading representatives of Peru's political, judicial, military and police forces were implicated in the video recordings made by Fujimori's unofficial intelligence chief, Vladimiro Montesinos and many senior commanders of the armed forces found themselves behind bars.

Having boycotted the second round of the fraudulent presidential elections in 2000, Alejandro Toledo had led the massive Marcha de los Cuatro Suyos protesting Fujimori's attempt to achieve a third term in office. Although when he was elected President, Toledo's Peru Possible party did not have a majority in Congress, he started his term in office with popular support and optimism, not least because he was the first person of native descent to have been elected President.

By the time the TRC handed in its final report two years later, the political situation had changed completely. People were disillusioned with democracy; Toledo had failed to keep many of his election promises of creating jobs and tackling poverty. His popularity rating stood at around 10%, there were frequent strikes, including some long running national strikes (for example that of the teachers) and general strikes in Arequipa over privatisation which had led to violent stand-offs between protestors and the police. Facing criticism

of the report from right-wing politicians and pressure from retired members of the armed forces, along with widespread apathy from many areas of Peruvian society, there were deep concerns that despite his personal commitment, Toledo would be unable to implement the TRC report.

## THE TRUTH AND RECONCILIATION COMMISSION

The Truth and Reconciliation Commission was set up in 2001 by the interim government of Valentin Paniagua. This 9 month, broad-based "caretaker" government gave the commission a mandate to determine the causes of the violence, identify the crimes and human rights violations perpetrated during the period, and where possible identify those responsible. It was also asked to make proposals for the reparation of victims and their families, and to make recommendations for reforms to prevent anything similar happening again. The Commission eventually consisted of twelve members and one observer.

The Truth and Reconciliation Commission set up 5 regional

offices. They visited 530 districts in 137 provinces in every department of Peru and received around 17,000 testimonies. They brought together a mass of written evidence from an array of different sources including press reports, official documents from a range of government agencies and the archives of various human rights organisations.

Uniquely to Latin America, the TRC in Peru held public hearings where individuals and representatives of different groups, gave their personal testimony in a public sphere. This was important in raising awareness, especially among those unaware of such human rights violations taking place.

The commissioners conducted lengthy interviews with politicians, military personnel and militants of both Sendero and the MRTA.

At the end of nearly two years, the TRC formally handed over its 9-volume final report to President Toledo and the people on 28 August 2003. They had also compiled a list of disappeared people, and handed over around 45 cases of human rights violations to

**“Today out of a population of 27.1 million there are still 1.5 million unregistered people”**

**Lord Alderdice and John Battle MP at a meeting with ANFASEP, a grassroots human rights organisation.**

the Public Prosecutors Office for them to investigate and bring charges.

## THE KEY FINDINGS OF THE TRC

► In the twenty years under investigation, it is believed that 69,280 people lost their lives.

*The number of deaths actually reported to the TRC was 28,000 and the difference arises from taking the estimates of various other organisations and then cross checking them so as to avoid counting the same victims twice or more. Under pressure of time and money, the TRC was forced to concentrate its efforts in specific parts of the country. The TRC says that the 69,280 figure is subject to a 5% margin of error either way (i.e. between 51,007 and 77,552).*

► Of the total number of deaths reported to the commission, more than 40% took place in Ayacucho.

*Ayacucho, Junín, Huanuco, Huancavelica and Apurímac together account for 85% of the deaths reported. These are among the poorest departments of Peru.*

► Of the total number of deaths, 79% were inhabitants of rural areas, and 56% were peasants. Three quarters came from families whose mother tongue was Quechua, or one of the other indigenous languages.

► Of those killed, 68% had no secondary education - a much higher figure than the national average.

► Some 54% of the killings reported to the TRC were carried out by Sendero Luminoso, 44.5% were perpetrated by the police, army, navy or peasant militia and 1.5% by the MRTA.



## THE MEMBERS OF THE COMMISSION

**President Solomón Lerner Febres:** Philosopher and Rector of the Catholic University

**Enrique Bernales:** Jurist, Constitutional Lawyer and former Senator

**Carlos Iván Degregori:** Author and Anthropologist

**Gaston Garatea:** Roman Catholic priest and President of the Anti-poverty Forum

**Alberto Morote:** Engineer and expert on Ayacucho

**Carlos Tapia:** Political researcher and analyst, expert on Sendero Luminoso

**Beatriz Alva Hart:** Practising Lawyer, former congresswoman

**Sofia Macher:** Former executive secretary of the National Coordinator of Human Rights

**Santiago Antunez de Mayolo:** Roman Catholic priest, ex apostolic administrator of the Ayacucho Archdiocese

**Humberto Lay:** Leader of the National Evangelical Council

**Rolando Ames:** Sociologist, political scientist and former senator

**Luis Arias Graziani:** Retired air force general and advisor to Alejandro Toledo

» The worst period of killing was in 1983 and 1984, during the Belaunde government (1980-85).

*Following something of a lull in 1985 and 1986, the numbers increased again in the period 1987-1990. During the 1990s and especially after the capture of Abimael Guzmán in 1992, the death toll tailed off notably.*

» Of those killed, 80% were men. 59% of the victims were married with families. Thousands of children were left as orphans.

» 4,000 burial sites were identified by the TRC.

### PURPOSE OF THE PARLIAMENTARY VISIT

The Parliamentary delegation to Peru was organised in response to requests from Peruvian organisations requesting demonstrations of international solidarity, and ways of raising international awareness of the issue.

The PSG had concerns that the political climate in Peru will make it very difficult for Alejandro Toledo's government, which currently has little domestic support, to act decisively on the recommendations of the Truth Commission report.

*“They visited 530 districts in 137 provinces in every department of Peru and received around 17,000 testimonies”*

The visit was co-ordinated by the Peru Support Group supported by a group of UK NGOs working in Peru - CAFOD, CIIR, Christian Aid, Christian Solidarity Worldwide, Oxfam, Save the Children UK and Tearfund. The co-ordinator of the PSG, Hannah Morley, accompanied the delegation and co-ordinated the meetings, press events and interviews.

### The main aims of the delegation were:

1. To investigate the work being done to follow up on the recommendations of the Commission.
2. To send a clear message of support to both the Peruvian Government and Peruvian human rights organisations in their implementation of the recommendations of Peru's TRC.
3. To learn about the Peruvian experience and about the ways in which it is working towards reconciliation, and on its return to increase knowledge of the situation in Peru in the House of Commons and the House of Lords.
4. To raise awareness in the UK and stimulate media interest in Peru.

The parliamentary delegation in June 2004, formed part of a series of activities co-ordinated by the PSG, to support the

implementation of the recommendations of the final report by the TRC, and so we were well placed to organise this delegation to Peru, on behalf of the inter-agency group of UK development and human rights NGOs. The support these organisations and those in Peru, in particular the Human Rights Co-ordinating Body CNDDHH, helped ensure a full and informative agenda for the delegation.

The delegation stayed with the Columban Fathers in Lima and is most grateful for all their ground support and assistance.

*(See appendix 1 for a list of all the NGO's met up with on the trip)*

The delegation gave a number of interviews to national journalists in Peru, and held a well-attended Press Conference at the conclusion of the visit.

*(See appendix 2 for the Press Release from this Press Conference)*

### THE FINDINGS OF THE PARLIAMENTARY DELEGATION

During our meeting with President Alejandro Toledo, we received clear and unequivocal assurances from him of his commitment to act on the final report of the Truth and



Reconciliation Commission (TRC). President Toledo spoke of the commitment of his government to:

1. Implement a programme of collective reparations.
2. Bring those responsible for human rights violations to justice.
3. Initiate various institutional reforms.

From our own meetings and interviews it was clear to us that President Toledo had the support of a number of government ministers in this matter, and also that his supporters were working with him to gain domestic and international support for this work. Unfortunately it was obvious that some other government institutions did not show the same commitment. We met with Ms Gladys Echaiz from the Public Prosecutors office who showed great resistance to the urgency of carrying out of investigations and bringing charges against those responsible for crimes and human rights violations.

Recognition of the importance of the report, and the demonstration of will on part of the Toledo government has also been backed up by the creation of a high level, 'Multi-sector Commission Responsible for the Implementation of State Actions and Policies, in the areas of Peace, Collective Reparation and National Reconciliation'. This multi-sector commission is made up of high level representatives from the relevant Government Ministries, the National Council for Decentralization, the human rights community, civil society, the National Rectors Assembly, and the Council of Deans of professional colleges in Peru, however, this commission is not co-ordinating any of the work on institutional reform.

In congress, an eight-member sub-commission of the Human Rights and Justice Congressional committee has been set up. This group has carried out a series of interviews with representative bodies, and is working on a series of laws that would facilitate the implementation of the recommendations.

The President also outlined a number of difficulties in the implementation of the recommendations. In particular he highlighted the need for changes to the justice system, with education and training for judges and those involved in judicial processes.

## REPARATIONS

*"With the submission of its report to the country, the TRC believes that if it had ever been possible to claim ignorance or incomprehension of the drama that occurred in the early years of the conflict, it is no longer possible to do so. Once the State authorities and the citizens to whom our report is directed learn of the shocking dimensions of what happened, it becomes indispensable,*

*"The parliamentary delegation in June 2004, formed part of a series of activities co-ordinated by the PSG, to support the implementation of the recommendations"*

**Lord Alderdice with mourners at ceremony to return remains of the disappeared to families**

*ble, if we wish to live in a civilized manner in peace and democracy, we must make reparations, to the extent possible, for the serious harms that have been caused." (No 163, general conclusions of the TRC)*

In its final report the TRC presents a plan for six forms of reparation (see table overleaf): symbolic; health; education; restoration of citizenship rights; individual economic reparation; collective reparation. Despite the fact that the government has officially only committed to collective forms of reparation, the multi-sector commission has agreed to adopt almost all aspects of the TRC's integral plan. The commission plans to include housing as part of the programme of reparations but have ruled out individual monetary reparation.

"Initially we will prioritise reparation in health, education, housing and restitution of rights. This would involve budgetary commitments from the ministries of Development, Health, Defence, Housing, Justice and the Home Office." Jaime Urrutia, Executive Secretary, multi-sector commission.



## An Agenda for the Future

Programme	Components
<b>Symbolic</b>	<ul style="list-style-type: none"> <li>▶ Public gestures</li> <li>▶ Public events</li> <li>▶ Memorials</li> <li>▶ Similar acts to promote reconciliation</li> </ul>
<b>Health</b>	<ul style="list-style-type: none"> <li>▶ While health care, including improved public health measures are important in such a poor and deprived community, there is a particular need for attention to be given to the mental health care needs of those who suffered during the conflict (see case study opposite)</li> </ul>
<b>Education</b>	<ul style="list-style-type: none"> <li>▶ Access to and restitution of the right to education</li> <li>▶ Educational grants</li> </ul>
<b>Restitution of citizenship rights</b>	<ul style="list-style-type: none"> <li>▶ Legal status of disappeared</li> <li>▶ Legal status of requisitorados</li> <li>▶ Annulment of the records of innocent people wrongly imprisoned</li> <li>▶ Legal status of those without identity document</li> <li>▶ Free legal advice</li> </ul>
<b>Economic reparation</b>	<ul style="list-style-type: none"> <li>▶ The economic development of this poor region is critical if the roots of the earlier conflict are not to be allowed to foster a future breakdown</li> <li>▶ Services</li> </ul>
<b>Collective reparation</b>	<ul style="list-style-type: none"> <li>▶ Institutional consolidation</li> <li>▶ Repairing and rebuilding local infrastructure</li> <li>▶ Improving access to basic services</li> <li>▶ Generating employment and income</li> </ul>

Although the multi-sector commission is committed to these areas, almost a year on from the report, little had been done, largely due to funding restrictions.

"The report was given to the people in September last year. This was after the budget had been agreed. Last year it was impossible to add reparations to the budget but this year it will be important to see that it is included." Jaime Urrutia.

Many of the assurances of action made to the visiting delegation will only be possible if the draft budget for 2005 includes funds earmarked for

**Lord Alderdice and John Battle MP with Ms Gladys Echaiz**



implementing the recommendations, and more specifically for reparation. It is clear that not all the relevant ministries share the same commitment to carrying out the recommendations of the report. This may be a test for President Toledo's ability to impose his will on these ministries.

The commission also recognised the importance of creating a National Register of Victims of the Internal Armed Conflict. This could be created by supreme decree. The Ombudsman's office is already looking into forming such a list.

"We already have an official draft of disappeared from the national register of victims. So far there are 8,558 people registered, but these all have to be verified. People go out and check that people are still missing. As you can imagine, this is very labour intensive work." Rocio Villanueva, Ombudsman's office.

The first law being presented to congress by the congressional sub-commission working on the implementation of the TRC report would create the legal status of 'disappeared'. This would have no judicial implications, but as a legal status would, for example, allow people whose husband or wife disappeared during the internal armed conflict to have the right to remarry. It would also allow people to inherit land or property currently owned by the disappeared.

The Justice Minister told us, "I think the state is under an obligation to give an explanation to its people of why it was unable to comply with its responsibility to give people security"

### INSTITUTIONAL LEGAL REFORM

*"The TRC has found that the conflict demonstrated serious limitations of the State in its capacity to*





## CASE STUDY: MENTAL HEALTH IN AYACHUCHO

There is no doubt that those who experienced terror and loss during the years of the terrorist campaign and the concomitant military and police repression have suffered emotionally. While the younger generation who have grown up since then will not remember what happened, it would be unwise to assume that they are unaffected. On the contrary they will inevitably carry with them, through family history and communal experience, scars which will continue to have an impact on them, their families and their society. If nothing is done to address it there is every likelihood that the problems will be repeated at some point in the future.

The TRC recommended individual economic reparations, but it has pointed out that it is very difficult to identify with certainty those who ought to benefit from such reparations. Addressing mental health needs is one way of resolving this conundrum. If mental health care can be made available in affected communities, it will only be accessed by those who need it - unlike direct economic aid, which could be claimed by those not entitled. An advantage to the local economy would be obtained

by establishing a mental health training scheme in the region. This would provide indigenous healthcare workers who could then provide the necessary care for affected individuals and families. Ultimately these workers could take over the training scheme ensuring the future skills base in the region. This way of addressing the mental health needs of the community could help heal the past, give better prospects of avoiding violence in the future, and give training and work to healthcare staff with positive knock-on benefits for the local economy.

There are some limited resources in the Peruvian healthcare community, mostly based in Lima, but little if anything in Ayachucho. Already a Harvard project is underway between Lima and Harvard University's to increase the skills of psychologists and others. There is also a well established local Peruvian organisation, the Richmond Fellowship, providing some training and services in Lima.

### International Support

It should be possible to identify trainers in the UK and in Lima who would be prepared to give a year or two to train staff in Ayachucho. This scheme could be congruent with the funding priorities of Government or Non-Governmental Organisations and Charities in the UK and Peru.

*guarantee public order and security, as well as the fundamental rights of its citizens within a framework of democratic action. The TRC has also found the constitutional order and the rule of law to be precarious, and breached in moments of crisis." TRC report summary.*

The report of the TRC makes a number of recommendations linked to institutional reforms that need to take place to ensure that the sort of conflict that took place from 1980-2000 never recurs. There are four main areas of reform (listed below)

The multi-sector commission will have a lesser role in the implementation of this aspect of the TRC report, and we were told that institutional reforms would be overseen by the Prime Minister's office, but that there was no specific body mandated to co-ordinate work on this issue.

### 1. Building democratic state authority

*"(It is) clear that the republic has never incorporated all people." Sofia Macher, former Commissioner*

*"Peru is 4 or 5 different countries within one state. It is very difficult to have a one-size-fits-all policy. In the Amazon there are 13 languages and 40 dialects. There is still little or no State or Police presence there". "The (political) parties are very urban, and the problems have mostly been rural." Baldo Kresalia, Justice Minister*

The TRC found that some of the causes of the violence had their roots in the historical exclusion and discrimination of particular sectors of society. The victims were for the most part, Quechua-speaking peasant farmers, with a low level of education and with no legal identity. The vio-

*"if we wish to live in a civilized manner in peace and democracy, we must make reparations, to the extent possible, for the serious harms that have been caused"*

lence was largely ignored by the majority for many years. The country only realised the magnitude of the problem when a bomb went off in Tarata - a street in Miraflores, a wealthy area of Lima. The TRC has highlighted the issue of discrimination and racism against indigenous people in Peru. It has an opportunity now to make real changes.

The Justice Minister outlined a project to provide free basic legal advice to the poorest sectors of society. Three pilot centres for project "Alegra" are to be opened in the next year.

This will facilitate:

- » improved relations between civil society and the police
- » wider access to justice
- » encouragement of state employees to work in remote rural areas
- » fuller recognition of the rights of indigenous people
- » promotion of more effective political representation.



Toledo's government has also started a process of decentralisation which saw the election of regional presidents in Peru, though some seem to feel that both these processes have lost impetus.

### 2. Strengthening democratic institutions

*"There is very little local input to policing. It is a totally centralised system. They are demoralised, badly paid and have low-esteem. People have a very bad relationship with the police."*

Matt Garr, Jesuit priest working with the Episcopal Commission for Social Action.

During the visit, it became clear that reform of the police in Peru is absolutely vital. These reforms need to take place with or without the TRC report, though the report has highlighted the need for change and the potential cost of not implementing these reforms.

Such change will require:

- » bringing the military under the control of democratic authorities



*"I think the state is under an obligation to give an explanation to its people of why it was unable to comply with its responsibility to give people security"*

**The Public Prosecutors Office identify and record victims remains**

- » civilian control of military intelligence
- » redefining the police as a non-military organization
- » modernising the police
- » reforming training methods
- » creating a military ombudsman to guarantee soldiers rights.

### 3. Reforms to the justice system

*"The Ombudsman's Office is trying to put an end to military courts being used to try any case other than internal offences, but the judicial powers renounce their authority to try military cases. However, we are making progress and reducing their power."* Rocio Villanueva, Ombudsman's office

This was an area that President Toledo highlighted as being of key importance.

This will require:

- » Strengthening judicial autonomy
- » Ending the system of provisional judges
- » Bringing military justice system under aegis of the Supreme Court
- » A witness protection body
- » Establishing a special branch of the justice system to pursue cases identified by the TRC report
- » Human rights training for lawyers and judges.

### 4. Reforms to the education system

*"It is very important that the education system is reformed. There has been an emergency in the education system for a long time."*

Sofia Macher, former Commissioner for the TRC

"The worst of the violence ended in 1992/3 so the younger generation don't remember

it themselves. Cultural and social changes need to be made. Combating issues like racism and social exclusion must also be tackled through the education system. There needs to be contact from the two areas - urban and rural - and a greater mutual understanding." Matt Garr, CEAS

As well as improving access to education, and raising standards, it is important that the education system is used as a tool to ensure that the TRC report has a long-term impact in Peru.

This will require:

- » curricular reforms
- » greater respect for ethnic and cultural diversity
- » community involvement
- » literacy campaigns
- » incentives for teachers to work in rural areas

The TRC report was not the first to recommend some of these reforms. They were also in the National Agreement signed in July 2002 by all political parties and representatives of civil society.

## TRIALS - BRINGING PEOPLE TO JUSTICE

**"Why haven't they done more?"**

*"There is concern at the speed with which the investigations are happening. Requests are going to the authorities of the Public Prosecutors Office and being ignored or delayed. There is a question as to whether MPs really have the will to push for justice."*

Rocio Villanueva  
(Ombudsmans office)

When the TRC finished its mandate it handed over some 45 cases to the Public Prosecutors Office (Ministerio



Publico), the independent body responsible for investigating crimes and placing charges. These are cases where the TRC felt enough information had been gathered to identify and bring charges against the perpetrators. From the meetings we held, it was clear that there was a wide-spread perception that progress was slow in investigating these cases. The Ombudsman's office, which has the power to make recommendations to the Ministerio Publico, shared this concern.

Organisations of victims relatives, like ANFASEP in Ayacucho, echoed these concerns saying that their cases were not being taken seriously, and that they wanted to see action.

### Meeting with Ms Gladys Echaiz Ramos

In a meeting with the fiscal supreme, Gladys Echaiz Ramos, we were given the clear impression that these cases are not a priority for the Public Prosecutors Office. It was also made clear to us that much of the information gathered by the Commission would not be considered valid evidence.

"It was not really their place to decide if excesses were committed by the security forces. There were different social actors in the commission but they were not investigators and it was not their job. On the basis of the information given to us by the Commission, we have gone out to see if these are the facts. The Commission didn't take the testimonies in a legal way, and cannot be considered valid evidence. We are doing this, despite the fact that we don't have to - we have taken these steps with the aim of contributing to discovering the truth."

She added, "We are following up on the TRC beyond our normal remit. This work will take resources away from the normal budget. Without extra resources we cannot do any more than we are."

### Follow-up Action

*"We believe it could take 3-4 years for the first trial. The Ministerio Publico is working very slowly on this."*  
Rocio Villanueva

Despite the concerns about the will of the Public Prosecutors office, a number of actions have been taken. A specialised branch of the public prosecutors office was set up in Ayacucho that will be responsible for investigating around 70% of these cases.

*"Up to now we have been working on exhumations in Ayacucho in collaboration with civil society and NGOs and in accordance with the TRC. We want to focus on the cases handed over to the Public Prosecutors office by the TRC."*  
Cristina Ozanoa, Public Prosecutor in charge of the special branch set up in Ayacucho.

However, the team is currently made up of just one prosecutor and two others. In fact, to investigate these cases properly, would demand that more resources were allocated to the specialised branch of the public prosecutors office in Ayacucho.

The multi-sector commission has agreed that the Justice Ministry should be in charge of designing an integral system for the implementation of the penal processes, which comes as a result of the investigations carried out by the Ministerio Publico. This proposal would mean that as well as creating a specialised



**The exhumed remains of Virginio Moreno Machacaa, victim of the conflict, being handed back to his family for burial**

procuraduria, co-ordinating with the judicial powers, and the Ministerio Publico, the system will be designed by experts in this field.

### Exhumations

*"The perpetrators have to tell us what they did with the victims. The military generals are responsible, they know where people are buried."* Angelica Mendoza, ANFASEP

The public prosecutors office is also responsible for any exhumations that are carried out. According to the Ombudsman's office, 4,000 graves of varying sizes have now been registered. During their mandate the TRC managed to visit 2,000 of them. They were identified by testimonies and many of the victims buried at these sites have been identified by cross-referencing dates and testimonies.

Organisations of victim's relatives like ANFASEP, believe that it would be possible to

**"The TRC has highlighted the issue of discrimination and racism against indigenous people in Peru. It has an opportunity now to make real changes"**







identify where more victims are buried with further collaboration from the military. However, we were told that any cooperation from the military is currently scant or non-existent and this is proving to be a major obstacle in the quest for justice.

The multi-sector commission told the delegation they were waiting for a report from the Public Prosecutors office about work on exhumations and the anthropological forensic plan.

*"People can be identified by their clothes, (clothes have been preserved by cold temperatures in the mountains) by old fractures, groupings of people etc. But the work is slow. The team in the Ministerio Publico normally work on autopsies of the recently deceased and don't have any expertise in identifying old remains".*

German Vargas, Paz y Esperanza, Ayacucho

**Lord Alderdice and John Battle MP meeting with members of ANFASEP**

*"It was made clear to us that much of the information gathered by the Commission would not be considered valid evidence."*

**Remains being handed back to relatives**



## AYACUCHO CASE STUDY

*"The TRC concludes that the violence fell unequally on different geographical areas and on different social strata in the country. If the ratio of victims to population reported to the TRC with respect to Ayacucho were similar countrywide, the violence would have caused 1,200,000 deaths and disappearances. Of that amount, 340,000 would have occurred in the city of Lima"*

TRC general conclusions

"The government has a social debt to Ayacucho" Dr. Marcial Jara Huayta, president of the Courts of Justice in Ayacucho.

The armed conflict started in Ayacucho, worst affected by the violence not only in terms of what was destroyed but also due to the fact that any possible development in the region was stunted for many years. The effect on the region is undeniable. Some 40% of the deaths took place in Ayacucho, and 1,200 of the 2,000 burial sites visited by the TRC are located there. As a majority of the victims were men with families there are high numbers of orphans or children who grew up with one parent families as a result of the violence.

We were told that to train a specialist in this area can take 7-10 years. In the last 3 years, 5 mass graves have been exhumed but it is clear that it can take months to identify the remains after the passage of time. Although in terms of expertise and techniques, collaboration with Argentine forensic-anthropology teams is a possibility. However, without more financial backing, the continuation of work on the

scale required will prove very difficult.

As part of the continued investigations, it is fundamental that forensic teams see Ayacucho as the epicentre of the violence, and therefore the region most in need of discovering where their loved ones are buried.

In Ayacucho, they have set up an Inter-institutional working group, made up of representatives of the Judiciary, the Public Prosecutors office, the College of Law, the Ombudsman's office, the National Police, Members of the local Council and the human rights NGO Paz y Esperanza. The main aim of the group is to improve access to justice in Ayacucho. They outlined areas in which they were looking for support, and ways that links could be built between Ayacucho and the UK:

### » University connections

Currently there is no post-graduate course in Ayacucho focusing on human rights. Links could be forged between universities with this speciality in the UK and the University of Huamanga, Ayacucho.

### » Training of Police

Links and exchanges of information and experience could be built up between police in Northern Ireland and Ayacucho. The police could also receive human rights training.

### » Training of Judges and Lawyers

The working group felt that Judges, lawyers and other professionals involved in the justice system would also benefit from training in human rights. This was also the view of President Toledo.



## CONCLUSIONS

As with all the other TRC's (and there have been more than twenty since the first Ugandan Commission in 1974) we are beginning to recognize that reconciliation is not about getting back to where we were. We should not be trying to return Peru to where it was in 1980, but rather to build a reconciled Peru that has never been before. The roots of the violence lay in the history of Peru, and the dysfunctional nature of the society that has developed from that history.

### 1. Reparations

During our short stay in Lima and Ayachucho we met with a wide range of Government Officials and NGOs. We have been advised that there are real possibilities in the near future of commitments on reparations (at least as far as groups and communities are concerned) and developments in the administration of justice.

### 2. Political will

It was difficult to be entirely reassured that the key recommendations of the TRC would be implemented. Thus, in the following months it will be important that we continue to look for evidence of good faith and political will, not just by the government but by the more permanent elements of the administration.

### 3. The Budget

A priority, and a good starting point, will be explicit lines for reparation action in the commitments of each relevant Ministry in the budget for 2005.

### 4. Social development

There needs to be an adequate response to the increasing levels of poverty and the needs of communities who live in the poorest

regions of Peru. Otherwise the sense of injustice, which was at the root of the insurgency, will remain unresolved and Peru will remain vulnerable to future instability.

### 5. International cooperation

Peru does not have to carry out these recommendations alone. Some countries have been through similar experiences and others are struggling with the legacy of communal violence. Peru has a contribution to make to the wider understanding of these issues and should receive support from the international community.

### 6. Institutional reform

International assistance must be met by preparedness on the part of powerful elements within Peru to address the causes as well as the consequences of past tragedy.

### 7. We concluded that there are three clear priority areas:

» The need for trials to take place to identify the guilty and acknowledge past injustice.

» A process of economic and social reparations for people affected and for their communities.

» A far reaching programme of institutional and legal change, including within the police.

## FOLLOW UP TO THE VISIT

1. The production of this written report, presenting our findings and recommendations.

2. Seminar to be held at Westminster to raise awareness amongst parliamentarians, especially the Latin America All Party

*“True peace and democracy can only be embedded in a country if a vast process of rehabilitation is introduced including tackling racism”*

Salomon Lerner,  
President of the TRC

*“This is an opportunity to rethink what kind of democracy we have. We have to connect the past to the future, the dead to the living”*

Sofia Macher, one of the twelve former commissioners.

Parliamentary Group and other relevant Groups in Parliament.

3. Conference to be held in Northern Ireland (2nd December 2004, Belfast) to explore the work of the TRC and its possible relevance for Northern Ireland.

4. Correspond with the British Ambassador to Peru in terms of monitoring any trials and the progress of cases.

5. Publication of other articles to raise general awareness.

6. Observe what budget lines are included in the 2005 draft budget, and in particular what money is being contributed to the recommendations of the TRC Report.

7. Investigate what reforms are taking place in the police.

8. Explore the possibility of links between the law departments in Leeds and Ayachucho, and other legal academic connections, such as in the training of lawyers, especially judges.

9. Follow up the possibility of a training scheme for mental health workers in Ayachucho, particularly concentrating on building skills in dealing with the aftermath of trauma.

10. Enquire into the strengthening of democracy and political parties in Peru, with the possible support of the Westminster Foundation for Democracy.

11. Request a meeting with Mr Bill Rammell MP, Minister at the Foreign Office, to discuss UK-Peru relations.

12. Request a meeting with the new Peruvian ambassador, Luis Solari Tudela.



## 21 YEARS OF PAIN, A FUTURE OF HEALING?

On Tuesday 22 June 2004, the families of five men who disappeared in 1983 were finally able to bury the remains of their loved ones. Virginio Moreno Machaca, Cirilo Galindo Huamani, Francisco Huamani Galindo, Moisés Huamani Calloccunto y Martín Vilca Tomaylla were identified after the two mass graves they shared with seven as yet officially unidentified bodies were exhumed in April 2004. According to an eyewitness, on the night of 6 July 1983, these people and 11 others, were taken from where they were detained in Totos military base to Sancaypata, and made to dig a hole. All of them were shot dead and buried in the graves, apart from one witness who managed to escape.

The UK parliamentary delegation were in the city of Ayacucho in Peru to attend a public ceremony on behalf of the victims. Outside the mortuary in Ayacucho five open coffins displayed the skeletons of the people being returned to their families. While the rest of the victims remains were still nameless. Clothing, preserved by the cold of the Andes, that had been exhumed with the bones, was laid out on a white board. The families of the dead, who had travelled many hours to get to the city, had been waiting for three hours in the sun due to administrative delays.

It was hard to watch. Family members of the victims were formally handed the clothing of their father, brother, husband or son by Cristina Ozanoa, the prosecutor in charge of the newly formed human rights regional prosecutor's office in Ayacucho. They signed and stamped an official document and placed the package of clothes into the coffin.

With the formal handover completed, seven coffins were carried through the town in a small procession down to the main square and into the courtyard of the town hall: the five coffins of those who had been identified; one coffin for the people who died with them, but who have not yet been identified; and a seventh which represented the rest of the 69,000 people who died as a result of the violence in Peru 1980-2000. The women walked with them, heads and eyes cast down. It seemed quite a solitary group, and we were surprised by how little interest the procession generated among the rest of the population going about their business.

A civic reception included short speeches by the Mayor of Ayacucho, representatives of the

victims' families, and human rights NGOs, as well as a short Bible reading and prayer. Among other messages of international support, Lord Alderdice and John Battle were asked to say a few words, which were translated into Quechua.

"We know that the broken heart of a Quechua person feels the same as the broken heart of someone from Northern Ireland. We are here not only in solidarity but also to learn about the dignity with which you are dealing with the past," said Lord Alderdice. "This is not just about the past, but also about making the future better. So on behalf of my brothers and sisters in Northern Ireland, I wish you well for the future."

John Battle added: "I see some of the banners here today with slogans like 'we will sow the seeds of love, justice and equality' and I feel positive for the future of Peru. I was surprised at the signs of exclusion and racism that I have seen already on this trip. This is an issue in many parts of the world, including on my street in North England where we have 13 different nationalities living in the same community. I hope we can all work together to help Peru move forward to a future where love, justice and equality is a reality."

The formal handing over of the remains and the civic ceremony were important acts, aimed at recognising the importance of the victims as well as the suffering of their loved ones. But this was just the third ceremony of its type since the creation of the TRC in 2001. There was no national media coverage of the event, no national government representatives and it seemed as though there might not have been a civic ceremony at all if it had not been for the work of local human rights defence organisations.

These were bodies identified from one of the 4,000 registered burial sites in Peru, and the question remains as to how many other relatives will be given the opportunity to take their loved ones to be buried in their own community. But having the closure of a coffin or of a grave is not the same as completing a process of grieving, or of demanding truth, justice and long-term reconciliation. As John Battle notes: "a public ceremony to return the remains, while at least acknowledging the facts of political disappearance and violent death, has to be accompanied by political, social and economic processes of accountability, responsibility and reparation, to be any sense of moving on from the past".



## APPENDICES

### Appendix 1

In the course of its visit, the delegation from the UK had the opportunity to meet with the following NGOs:

- » Laura Vargas and Matt Garr from the Episcopal Commission on Social Action
- » Peter Hughes and Ed O'Connell from the Columban Fathers
- » Gino Costa, Legal Defence Institute (Former Interior Minister)
- » Francisco Soberon, Executive Secretary of the National Human Rights Co-ordinating body, CNDDHH
- » Ana Maria Rebas, Martin Beaumont, Oxfam, Eduardo Caceres, Oxfam GB.
- » We met with both the former member of the TRC, Sophia Macher (Legal Defence Institute, IDL), and its former president Salomon Lerner, rector of the Catholic University in Lima.
- » As well as having an audience with President Alejandro Toledo, we also met government and state representatives:
  - Javier Diez Canseco, Member of Congress
  - Mariano Rengifo, Vice-President of Congress
  - Jaime Urrutia, Executive Secretary of the Multi-sector commission for peace, collective reparation and national reconciliation and Eduardo Gomez de la Torre Freundt, advisor to the commission within the Prime Minister's office
  - Dr. Oscar Alfaro, interim President of the Supreme Court
  - Gloria Helfer, president of the congressional sub-committee for follow up on the TRC
  - Baldo Kresalia, Justice Minister; Dr. Landa, Vice Justice Minister; Dr. Jose Burneo, head of human rights in Justice ministry
  - Gladys Echaiz Ramos, Interim Attorney General
  - Rocio Villanueva, Ombudsman for human rights and women
- » In Ayacucho we held a meeting with a number of organisations of people affected by the violence:
  - ANFASEP; AJOVISOP; Juventud ANFASEP; AFADAVP as well as with representatives of human rights NGOs Comisedh and Paz y Esperanza. A meeting with the Inter-institutional working group included representatives from the Judiciary; Public prosecutors office; College of Law; Ombudsmans office; National police; Members of the local council and Paz y Esperanza.
- » We met with the British Ambassador to Peru, HE Richard Ralph, as well as Frank Fitzpatrick of the British Council, and Marfil Franke and Carlos Santiso from Dept for International Development (DfID) Peru.

### Appendix 2

#### Press Release

British Parliamentarians lend support to implementing the Report of the Truth and Reconciliation Commission

During a five-day visit to Peru, two British parliamentarians, Lord Alderdice and John Battle MP have insisted that the principles outlined in the final report of the TRC are absolutely critical. They recognise that although the TRC identifies ways in which these principles can be implemented, precisely how that work is carried out needs serious discussion.

The delegation co-ordinated by the Peru Support Group has concerns about the speed at which action is being taken. "One of the reasons we came was because of our concern about the slow pace of government action in taking up and implementing these recommendations. During our short stay we have been advised that there are real prospects of commitments on reparations and legal developments in the near future and over the next few months we will be continuing to look for evidence of good faith that the government is doing all it can" says Lord Alderdice. "Peru does not have to do this on it's own, other countries have been through these sorts of experiences" he added "Peru has a contribution to make and can receive support from the international community."

Between 21-25 June the parliamentarians met with a wide range of people from Members of Congress, Ministers and various authorities to groups of people affected by the violence, human rights organisations, and members of civil society. "All of those we spoke to said what a very important document this is. But this is not a theoretical document, it is about suffering human beings, it is a document for action. Three clear priority areas are the need for trials to take place, for a full process of reparations for people affected and for a programme of institutional and legal change. A good start will be explicit lines for reparation action in the commitments of each relevant Ministry when the budget for next year is published this summer" says John Battle MP "There needs to be an adequate response to people's real needs."



The Peru Support Group (PSG) was formed in 1983 in response to the human rights violations taking place in Peru as a result of the armed internal conflict. The PSG is a membership based organisation with no party or political affiliation that continues to work to raise awareness of Peru in the UK, and to support the people of Peru, especially those from the poorest sectors.

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### **JOIN THE PERU SUPPORT GROUP**

Help the Peru Support Group to raise awareness of the situation in Peru and support the Peruvian people. By becoming a member you will join a network of people in the UK who are committed to human rights and working towards a more democratic Peru.

You will receive the PSG publication, the Peru UPDATE bi-monthly and will be invited to events and other activities. You will also get the opportunity to contribute to our work and become involved in campaigning and lobbying.

Contact the PSG office to find out how to join.

***The PSG would like to thank Lord Alderdice, John Battle MP and Hannah Morley for their work and input into the UK Parliamentary Delegation and this report.***

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