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Andean – U.S. Dialogue Forum

Country Visit

Peru

August 11-12, 2010

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## CRS Report for Congress

# Peru: Political Situation, Economic Conditions and U.S. Relations

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### Summary

Peru, a coca-producing country in the Andean region of South America, has had a turbulent political history. Despite its tumultuous past, Peru has recently taken steps to consolidate its democracy and pursue market-friendly economic policies. For the past seven years, Peru, a leading mineral exporter, has posted some of the fastest economic growth rates in Latin America. GDP growth reached 8% in 2007. In June 2006, former president Alan García (1985-1990) was elected president in a close race. After taking office, García embraced the United States-Peru Trade Promotion Agreement (PTPA), which the two countries signed on April 12, 2006 and the Peruvian legislature ratified in June 2006. PTPA implementing legislation (H.R. 3668) passed the House on November 8, 2007, by a vote of 285 to 132; the Senate on December 4 by a vote of 77 to 18; and was signed by President Bush on December 14, (P.L. 110-138). In addition to trade matters, congressional interest in Peru focuses on human rights issues and counternarcotics cooperation. See CRS Report RL34108, *U.S.-Peru Economic Relations and the U.S.-Peru Trade Promotion Agreement* and CRS Report RS22521, *Peru Trade Promotion Agreement: Labor Issues*. This report will be updated periodically.

### Background<sup>1</sup>

Peru has had a turbulent political history, alternating between periods of democratic and authoritarian rule. Political turmoil dates back to Peru's traumatic experience during the Spanish conquest, which gave rise to the economic, ethnic and geographic divisions that characterize Peruvian society today. Since its independence in 1821, Peru has had 13

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<sup>1</sup> Cynthia McClintock, "Peru: Precarious Regimes, Authoritarian and Democratic," *Democracy in Developing Countries: Latin America*, Eds. Diamond et al., London: Lynne Rienner, 1999.

constitutions, with only nine of 19 elected governments completing their terms. Peru's most recent transition to democracy occurred in 1980 after 12 years of military rule. The decade that followed was characterized by a prolonged economic crisis and the government's unsuccessful struggle to quell a radical Maoist guerrilla insurgency known as the Shining Path (Sendero Luminoso).<sup>2</sup>

In 1985, leftist Alan García of the American Popular Revolutionary Alliance (APRA) was elected president. During his first term (1985-1990) García's antagonistic relationship with the international financial community and excessive spending on social programs led to hyperinflation. His security policies were unable to defeat the Shining Path. By 1990, the Peruvian population was looking for a change and found it in the independent candidate Alberto Fujimori. Once in office, Fujimori implemented an aggressive economic reform program and stepped up counterinsurgency efforts. When tensions between the legislature and Fujimori increased in 1992, he initiated a "self coup," dissolving the legislature and calling a constituent assembly to write a new constitution. This allowed him to fill the legislature and the judiciary with his supporters. President Fujimori was re-elected in 1995, but his popularity began to falter as the economy slowed and civic opposition to his policies increased. He was increasingly regarded as an authoritarian leader, due in part to the strong-handed military tactics his government used to wipe out the Shining Path that resulted in serious human rights violations.

President Fujimori won a third term in 2000, but the elections were marred by irregularities. Within weeks of taking office, a bribery scandal broke that, combined with allegations of human rights violations committed by his top aides, forced Fujimori to agree to call new elections in which he would not run. An interim government served from November 22, 2000 to July 28, 2001, when the newly-elected government of Alejandro Toledo took office. Toledo's presidency (2001-2006) was characterized by extremely low approval ratings but high economic growth rates; 5.9% in 2005 and 8% in 2006. Toledo was able to push through several reforms, including a tax reform measure and a free trade agreement with the United States. Despite the economic improvements, Toledo's presidency was marred by allegations of corruption and recurrent popular protests.

#### Peru: Key Indicators

**Population:** 28.6 million

**Geographic Characteristics:** Pacific coastal plains, Andean mountain highlands, Amazon Basin lowlands

**GDP growth rate:** 8% (2007)

**Per capita income:** \$2,920 (2006)

**Ethnic Composition:** Indigenous (45%), Mestizo (37%), European (15%), African, Japanese, Chinese and other (3%)

**Languages:** Spanish, Quechua, Aymara, and other indigenous languages

**Sources:** World Bank, U.S. Department of State, "Background Note: Peru," 2007.

<sup>2</sup> Between 1980 and 2000, armed conflicts between Peruvian government troops, the Shining Path, and others resulted in some 69,260 deaths and disappearances. See Commission on Truth and Reconciliation in Peru, Final Report, Annex 2, August 28, 2003. For more information, see David Scott Palmer, ed., *The Shining Path of Peru*, New York: St. Martin's Press, 1994.

## Current Political and Economic Issues

**Political Situation.** On June 4, 2006, former President Alan García defeated populist Ollanta Humala 53% to 47% in a close election. García won in the second round after garnering support from Peru's business community, which had been reluctant to support him in the first round. A retired army officer who led an October 2000 uprising against then-President Alberto Fujimori, Humala espoused nationalist, anti-globalization policies. Many observers were concerned that Humala had authoritarian tendencies. Now the opposition leader in Peru's Congress, Humala was charged in August 2006 with murder in connection to his military actions in the 1990s. In the legislative elections, Humala's alliance won 45 of the 120 seats in the unicameral Congress; García's party APRA won 36 seats, the center-right National Unity coalition captured 17 seats, and Fujimori supporters won 13 seats.<sup>3</sup>

President Alan García has taken steps to assure the international financial community that he is running Peru as a moderate rather than as the leftist he had been in his early career. Since initiating his political comeback in 2001, when he made an unsuccessful bid for the presidency against Alejandro Toledo, García has softened his populist rhetoric and apologized for his earlier errors. President García seems to have embraced sound economic policies, and the Peruvian economy has continued to perform well. However, his government has faced periods of social unrest and popular protests over lingering concerns about poverty and inequality. García's approval ratings have varied widely, reaching a high of 76% in August 2007 after his response to an 8.0 earthquake that killed at least 519 Peruvians, and then falling to 29% in November after a series of corruption scandals in his government.<sup>4</sup> García has made solidifying relations with the United States a top priority and shown himself to be a strong U.S. ally and a leading supporter of free trade in Latin America. Key political challenges facing the García administration include:

- **Reducing poverty and inequality.** According to the World Bank, the wealthiest 10% of the Peruvian population control 41% of the country's income whereas the poorest 10% control just 1% of the income. In recent years, Peru has seen rising popular demands for a solution to economic inequality. Poverty is more prevalent among indigenous households at 63% compared to 43% among non-indigenous households.<sup>5</sup> President García has pledged to increase public investment and social spending in order to reduce poverty and inequality, but has struggled to meet popular expectations.<sup>6</sup>

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<sup>3</sup> See CRS Report RS22430, *Peru: 2006 Elections and Issues for Congress*, by Maureen Taft-Morales.

<sup>4</sup> "Earthquake Relief Effort Becomes First Big Test for Peru's President," *Financial Times*, August 22, 2007; *Economist Intelligence Unit*, "Country Report - Peru," January 2008.

<sup>5</sup> Gillette Hall and Harry Patrinos, eds. *Indigenous Peoples, Poverty and Human Development in Latin America: 1994-2004*, New York: Palgrave Macmillan, 2006.

<sup>6</sup> "Peru Struggles to Spread Resources Wealth, Leaving Many Mired in Poverty," *Wall Street Journal*, January 14, 2008.

- **Fujimori Trials.**<sup>7</sup> In December 2007, the main trial began against former President Fujimori who is accused of corruption and human rights abuses. While most Peruvians feel that Fujimori ought to be prosecuted for his past crimes, many also feel that the possible punishment he faces – up to 30 years in prison and a fine of \$33 million – is too harsh. As the trial continues, President García may lose the support of the Fujimorista bloc in the Peruvian Congress, which he relies on to pass legislation, as well as popular support. In a separate case, also in December, a judge sentenced Fujimori to six years in prison for ordering an illegal search of a private residence during his last days in office.
- **Counternarcotics policies.** The government has increasingly relied on forced eradication to reach its coca eradication targets, which has in turn produced violent clashes between coca farmers and police. In 2006, the government eradicated 12,688 hectares of coca, making it the second year in a row that it surpassed its goal of eradicating 10,000 hectares.<sup>8</sup> Former Shining Path guerrillas have reportedly been involved in coca growing and in providing security for drug-traffickers in Peru.<sup>9</sup>

**Economic Issues.** President García has continued the pro-market economic policies of his predecessor, Alejandro Toledo, who presided over one of the highest economic growth rates in Latin America throughout his term, with 8% growth in 2006. García has embraced the U.S.- Peru Trade Promotion Agreement (PTPA), appointed a fiscally conservative finance minister, and cut government pay. Economic growth has been fueled by Peru's strong exports of minerals, textiles, and agricultural products such as sugarcane, potatoes, and asparagus. Peru is the world's second largest producer of silver and sixth largest producer of both gold and copper. It is also a significant producer of zinc and lead. The Peruvian economy has been boosted by U.S., Brazilian and Argentine investments in the Camisea natural gas project, which by 2009 is expected to be exporting liquified natural gas to the United States and Mexico.<sup>10</sup>

President García has sought to reassure poor Peruvians that he is addressing their needs by pledging austerity measures such as halving the Government Palace's annual spending and redirecting the funds to a rural irrigation project. García says he will also find ways to use trade to reduce the level of poverty in Peru and widen income distribution. His government is seeking to boost rural development by increasing its investments in road construction, sanitation projects, and water connections.

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<sup>7</sup> Fujimori went into exile in Japan in 2000 and tried to return to Peru in November 2005, but was arrested en route by Chilean authorities. In September 2007, Fujimori was extradited from Chile to Peru. See "Peru Politics: Fujimori Trial Continues," *EIU*, January 3, 2008.

<sup>8</sup> Eradication and seizure figures taken from U.S. Department of State, *International Narcotics Control Strategy Report*, March 2007.

<sup>9</sup> "High-level Shining Path Guerrilla Killed in Peru," *EFE News Service*, November 27, 2007.

<sup>10</sup> "High Growth Masks Peru's Two Diverging Economies," *Financial Times*, July 28, 2007.



## U.S. - Peruvian Relations

Peru enjoys strong ties with the United States, characterized by extensive economic linkages and significant counternarcotics and security cooperation. Since the presidency of Alejandro Toledo in 2001, Peru has focused on strengthening those ties. Some 200,000 U.S. citizens visit Peru annually and over 400 U.S. companies are represented in Peru. President García met with President Bush at the White House in October 2006 and again on April 23, 2007, at which time the leaders discussed their shared commitment to fighting the production and consumption of illicit drugs and to securing congressional approval of the PTPA. On December 14, 2007, Presidents Bush and Garcia met again for the signing of H.R. 3668, the implementation bill for the PTPA. Issues in U.S.-Peruvian relations include democratic development, human rights, counternarcotics, and trade issues, which are at the forefront of the bilateral agenda.

**U.S. Aid.** The United States provided \$141.7 million in foreign aid to Peru in FY2006 and another estimated \$138.9 million in FY2007. The FY2008 request for Peru is for \$93.2 million, with the most significant cuts occurring in counternarcotics funds traditionally provided through the Andean Counterdrug Initiative (ACI). Beginning in FY2008, alternative development programs previously supported by ACI funds will be shifted to the Economic Support Fund (ESF) account. ACI has been the primary U.S. assistance program to help Colombia and its neighbors address drug trafficking and related economic development issues. The Consolidated Appropriations Act for FY2008 (H.R. 2764/P.L. 110-161) stipulates that funding from the Development Assistance and Global Health and Child Survival (formerly Child Survival and Health) accounts be made available for Peru at no less than the amount allocated in FY2007. It also provides funding for environmental programs in Peru at FY2006 levels. The joint explanatory statement to the Consolidated Appropriations Act recommends providing \$30 million in Economic Support Funds and \$36.8 million in ACI funds to Peru in FY2008.

The U.S. Agency for International Development has four main goals for Peru: strengthening democracy; increasing governance in isolated areas where drug traffickers operate; reducing poverty; and decreasing maternal mortality and other health threats. Peru was recently selected to participate in the Millennium Challenge Account (MCA) Threshold Program. That program will focus on combating corruption, strengthening the rule of law, and improving resource management in Peru.

**Human Rights.** The government of Peru has taken steps to expand and enforce its labor laws and to prosecute those accused of past and current human rights violations. According to Human Rights Watch, while the Peruvian government has made some progress in holding those accused of past abuses responsible for their actions, many are still able to avoid prosecution. The State Department's *Country Reports on Human Rights Practices* covering 2006 says that while the Peruvian government generally respects the rights of its citizens, ongoing problems include abuse of detainees and inmates by police and prison guards; poor prison conditions; trafficking in persons; child labor in the informal sector; and failure to enforce labor laws, among others. Human rights groups have also expressed concerns that a law passed in December 2006 to regulate the

activities of non-governmental organizations operating in Peru unnecessarily restricts freedom of expression and association in the country.<sup>11</sup>

**Counternarcotics Cooperation.** Peru is a major illicit drug-producing and transit country, accounting for 28% of global cocaine production. In 2006, according to United Nations figures, coca cultivation increased by 7% in Peru even though the government increased its coca eradication efforts by 4% from 2005 levels.<sup>12</sup> The United States and Peru signed a five-year cooperative agreement for 2002-2007 that links alternative development to coca eradication more directly than past programs have. Peru is the second largest coca cultivating country in the world after Colombia, but receives less than one quarter of the funding Colombia receives through the Andean Counter Drug Initiative. In FY2008, counternarcotics assistance to Peru is estimated to total \$66.8 million, down from the \$106.5 million allocated in FY2006, and an estimated \$103.3 million in counternarcotics funding provided in FY2007. Recent aid reductions appear to be due to overall budget cutbacks rather than any U.S. government dissatisfaction with Peru's counternarcotics efforts.

**U.S. - Peru Trade Promotion Agreement.** The United States is Peru's largest trading partner. Since December 2001, exports from Peru have received preferential duty treatment through the Andean Trade Preference Act (ATPA), later amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) in August 2002. These trade preferences were scheduled to end on December 31, 2006. However, the acts have been extended twice, and are now scheduled to expire on February 29, 2008.<sup>13</sup> ATPDEA gives duty-free market access to selected Peruvian goods without requiring reciprocal trade concessions or addressing issues such as intellectual property rights.

On December 7, 2005, the United States and Peru concluded negotiations on the U.S.-Peru Trade Promotion Agreement (PTPA). President Bush notified the Congress of the United States' intention to enter into the PTPA on January 6, 2006, and the agreement was signed on April 12, 2006. The PTPA was ratified by the Peruvian legislature in June 2006. Whereas the ATPDEA provides temporary trade preferences to some goods from Peru, the PTPA is a comprehensive trade agreement that will permanently eliminate tariffs and other barriers on U.S.-Peru bilateral goods and services trade. After several Members of Congress indicated that some of the provisions in the agreement would have to be strengthened, the Bush Administration and Congress reached an agreement on May 10, 2007 on a new trade framework that includes core labor and environmental standards. On June 27, 2007, Peru's Congress approved the amendments to the PTPA. PTPA implementing legislation (H.R. 3668) passed the House on November 8, 2007, by a vote of 285 to 132; the Senate on December 4 by a vote of 77 to 18; and was signed by President Bush on December 14, (P.L. 110-138). During its second session, the 110<sup>th</sup> Congress is likely to be interested in implementation of the PTPA.

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<sup>11</sup> Human Rights Watch, "World Report 2000"; CRS Report RS22521, *Peru Trade Promotion Agreement: Labor Issues*, by Mary Jane Bolle and M. Angeles Villarreal; "García Forges Ahead with his own War on Terror," *Latin American Andean Group Report*, January 11, 2007.

<sup>12</sup> United Nations Office on Drugs and Crime (UNODC), *World Drug Report 2007*.

<sup>13</sup> See CRS Report RS22548, *ATPA Renewal: Background and Issues*, by M. Angeles Villarreal.

**A Year after Implementation of Peru Free Trade Agreement, U.S. and Peru Left with Broken Promises and No New Trade Model**  
**Public Citizen. February, 1 2010 by Travis McArthur and Todd Tucker**

On the one-year anniversary of the implementation of the U.S.-Peru “Free Trade Agreement” (FTA), it has become clear that the hopes and predictions of proponents of the trade deal have failed to materialize. Instead, as critics of the deal had feared, environmental and labor conditions in Peru have deteriorated rapidly since the congressional passage of the FTA in late 2007 and implementation on February 1, 2009.

The Peru FTA text included several reforms of labor and environmental standards relative to the Bush trade pact model, which was based on the North American Free Trade Agreement (NAFTA) and the Central America Free Trade Agreement (CAFTA.) These changes were added to the template following a May 2007 deal between the Bush administration and some congressional Democrats.

**LABOR**

Despite the 2007- revised labor language, in Peru today, under the FTA, employers can use subcontracting and outsourcing legal loopholes that limit workers’ ability to unionize, and child labor and forced labor continue unabated. Indeed, the Peruvian government’s true intentions became clear at a U.S. Chamber of Commerce victory event the day the Peru FTA was signed into law, when Peruvian President García himself told the audience of lobbyists for U.S. multinationals: “Come and open your factories in my country so we can sell your own products back to the U.S.”<sup>1</sup>

**Prediction:** Representative Joseph Crowley (D-N.Y.) claimed that “*The labor standards [in the Peru FTA] include freedom of association, the right to collectively bargain, elimination of forced and compulsory labor, abolition of child labor, and elimination of employment discrimination, not to mention the advancements we have made in environmental protection.*”<sup>2</sup>

**Reality:** Peruvian law post-FTA violates ILO standards. Peru’s Labor Ministry determines the legality of labor strikes, but Peru’s obligations under the International Labor Organization require that only an independent body such as a court of law, not the Labor Ministry, shall determine the legality of strikes.<sup>3</sup> Unfortunately, Congress gave up its leverage over the Peruvian government when it voted to approve the FTA before the promised changes had been made in domestic law.

**Reality:** In Peru under the FTA, employers can use subcontracting and outsourcing legal loopholes that limit workers’ ability to unionize. In a January 2009 letter to the U.S. Trade Representative, Ways & Means Committee Chair Charles Rangel (D-N.Y.) and Trade

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<sup>1</sup> U.S. Chamber.Com Magazine, December 2007. Available at: <http://www.uschambermagazine.com/content/071217?n=w>. Accessed July 13, 2009.

<sup>2</sup> This and the other prediction quotes come from the House floor debate on the Peru FTA. See “Providing for the Consideration of H.R. 3688, UNITED STATES-PERU TRADE PROMOTION AGREEMENT IMPLEMENTATION ACT,” In House of Representatives, Nov. 07, 2007.

<sup>3</sup> Inside U.S. Trade, “Schwab Certifies Peru FTA Despite Labor Complaints from Key Democrats,” January 23, 2009. See also: *Freedom of Association. Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, 2006, Paragraph 571, Available at: [http://www.ilo.org/public/libdoc/ilo/2006/106B09\\_305\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/2006/106B09_305_engl.pdf). See also: “CEACR: Individual observation concerning freedom of association and protection of the right to organize convention, 1948 (No. 87) Peru (ratification: 1960),” 2009.

Subcommittee Chair Sander Levin (D-Mich.) noted that, in 2008, Peru changed its labor laws to allow Peru's Labor Ministry to permit companies to use this technique to deny the right to organize whenever the Ministry believes that doing so is "reasonable."<sup>4</sup>

**Reality:** Under the FTA, child labor and forced labor continue unabated in Peru. A September 2009 investigation conducted by the U.S. Labor Department found that bricks, gold, and fireworks are produced with child labor in Peru.<sup>5</sup> The investigation also discovered that the production of Brazil nuts, gold, and timber in Peru involved forced labor.<sup>6</sup>

## ENVIRONMENT

Despite the revised environmental language, the Peruvian government rolled back environmental protections existing prior to the FTA so as to implement the FTA's foreign investor rights provisions to access forestry, mining and other natural resource concessions. This included access to sensitive Amazonian territories over which indigenous communities had control under pre-FTA Peruvian law.

The foreign investor chapter (chapter 10) contains numerous commitments and obligations that promote unsustainable land use and natural resource policies and provide new rights to foreign investors "with respect to natural resources that a national authority controls, such as for their exploration, extraction, refining, transportation, distribution, or sale."<sup>7</sup> Peru's FTA Annex II lists a reservation from this foreign ownership right that allows the government to forbid foreigners from owning land that is within 50 miles of Peru's border.<sup>8</sup> However, the García government did not schedule any such exceptions for Amazon land or for land in collective indigenous title.<sup>9</sup> Peru could have taken exceptions to the FTA rules for the Amazon and chose not to do so. This made a mockery of Peru agreeing to the FTA's Annex on Forest Sector Governance and other additions related to natural resources following the initial signing of the agreement. In response to indigenous opposition, including road blocks in the remote northern Amazonian region of Bagua, the Peruvian government dispatched the military, and the resulting confrontation resulted in over 30 fatalities<sup>10</sup>—making the Peru FTA the first U.S. trade agreement to result in an immediate body count. (The related FTA Decrees and a timeline leading to this incident are included below.)

**Prediction:** Representative Earl Blumenauer (D-Ore.): "*We have already been able to use the force of these agreements to clarify the protections of threatened Peruvian forest wilderness using the leverage we have already got even before it was enacted.*"

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<sup>4</sup> Representatives Charles Rangel and Sander Levin, "Letter to the Honorable Susan C. Schwab," January 14, 2009. Available at: <http://waysandmeans.house.gov/news.asp>

<sup>5</sup> U.S. Department of Labor, "List of Goods Produced by Child Labor or Forced Labor," September 2009. Available at: <http://www.dol.gov/ilab/programs/ocft/pdf/2009TVPRA.pdf>

<sup>6</sup> Ibid.

<sup>7</sup> Peru FTA Article 1028.

<sup>8</sup> See Peru FTA, Annex I-Peru I. Available at:

[http://www.ustr.gov/sites/default/files/uploads/agreements/fta/peru/asset\\_upload\\_file266\\_9499.pdf](http://www.ustr.gov/sites/default/files/uploads/agreements/fta/peru/asset_upload_file266_9499.pdf)

<sup>9</sup> Indeed, perversely, Peru's Annex II reservation relating to minority rights is extremely narrow and explicitly does not cover policies related to foreign investors' rights to own and control extractive services or other businesses or to the investment chapter's rights of establishment. Thus, while the text states: "Peru reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities and ethnic groups. For purposes of this entry: ethnic groups means indigenous and native communities; minorities includes peasant (*campesinos*) communities..." this only applies to certain listed provisions of the FTA, not to the entire FTA.

<sup>10</sup> See Amnesty International, at <http://www.amnesty.org/en/news-and-updates/report/victims-peru-amazon-violencedeserve-justice-without-discrimination-20091>

**Reality:** Laws protecting forests and indigenous rights have been weakened and repealed. Whatever leverage Congress had over the Peruvian government disappeared when they voted to approve the FTA before a comprehensive pro-environment policy was put into place. Less than a week after President Bush signed the Peru FTA into law, the Alan García administration rammed through a bill (Law Number 29157) to give it new powers to implement any FTA-related measure for a period of six months without legislative approval.<sup>11</sup> This delegation of legislative authority is similar to Fast Track, the process under which the FTA itself was approved in the United States.<sup>12</sup> With this new authority, President García radically altered Peru's legal structure on use of the Amazon rainforest and indigenous lands by issuing dozens of decrees slashing environmental regulations.<sup>13</sup> When several of the U.S. environmental groups that had been working with the Office of the U.S. Trade Representative (USTR) on the FTA's forestry annex (but apparently were not familiar with the FTA's foreign investor rules) asked the Obama administration USTR to repudiate the García administration's claim that the anti-environment, foreign-investor-land-use Decrees were not necessary to implement the Peru FTA, USTR officials refused to do so.<sup>14</sup> However, due to widespread protests and roadblocks, in June 2009 the Peruvian Congress repealed two of these decrees (numbers 1064 and 1090) that would have facilitated foreign investors' purchase of collectively-held indigenous land.<sup>15</sup> According to a December 2009 report from *The Economist Intelligence Unit*, "the decrees were an important component of the FTA with the US, and failure to pass them could prompt legal challenges to the agreement."<sup>16</sup> The Peruvian government said in January 2010 that it will be developing new versions of these laws by August 2010, as the final step in FTA implementation.<sup>17</sup>

#### **Peru's Indigenous Communities Protest FTA Implementation Threat to Amazon**

AIDSEP, a Federation Representing 350,000 Indigenous Peoples in Amazon Region: "The FTA will give incentives for further and irreversible destruction of virgin rainforest, which will in turn increase global warming and displace our communities from their home territories... Provisions contained in the Peru FTA are directly incentivizing this massive takeover that is threatening our livelihoods and leading to irreversible destruction of virgin rainforest. For example, the Peru FTA's Chapter 10 establishes investor rights provisions that would help lock in our government's destructive anti-indigenous and anti-environment policies. The FTA explicitly gives foreign oil, gas and mining companies the right to skirt Peruvian laws and courts and challenge the Peruvian

<sup>11</sup> The Law 29157 was passed on Dec. 18, 2007, while President Bush signed the FTA into law on Dec. 14, 2007. See <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/29157.pdf> and <http://www.ustr.gov/trade-agreements/free-tradeagreements/peru-tpa>.

<sup>12</sup> Under this authority, the García administration introduced 99 decrees, the majority of which were introduced in the final weeks of the time period, in late June 2008. For a full list of the measures, see [http://sc.pcm.gob.pe/web/images/stories/interior/docs/sit\\_dl.pdf](http://sc.pcm.gob.pe/web/images/stories/interior/docs/sit_dl.pdf). Accessed July 13, 2009.

<sup>13</sup> Milagros Salazar, "PERU: Free Trade Opens Environmental Window," *Inter Press Service*, Nov. 1, 2008, Available at: <http://ipsnews.net/news.asp?idnews=44544>

<sup>14</sup> "USTR Hold Back on Controversial Peru Decrees at Root of Protests," *Inside U.S. Trade*, June 19, 2009.

<sup>15</sup> "USTR Hold Back on Controversial Peru Decrees at Root of Protests," *Inside U.S. Trade*, June 19, 2009. The repealed decrees were 1090 and 1064.

<sup>16</sup> "Latin America politics: Fighting it out in the Amazon," *Economist Intelligence Unit*, Dec. 22, 2009.

<sup>17</sup> According to the EFE wire service, "De otro lado, respecto a la implementación del TLC con Estados Unidos, Pérez explicó que Perú tiene hasta agosto para concluir con este proceso, en el que se incluye la modificación de la ley forestal que generó una violenta protesta de comunidades indígenas en la ciudad de Bagua con 34 muertos. 'Lo que viene es empezar a consensuar un nuevo texto de la ley forestal. Yo no diría que el tema de Bagua afecta la implementación del TLC, sino que está dentro del proceso', expresó el ministro peruano." See "Perú confía en implementar TLC con China en 40 días y concluir rondas con UE," *EFE*, Jan. 14, 2010.

government in foreign tribunals for changes to their licenses, authorizations, permits and other investment agreements. This provision goes even beyond NAFTA and CAFTA, and opens up a wide range of policies and future reforms to challenge in foreign trade tribunals.”<sup>18</sup>

**Reality:** Protests by indigenous communities in the Amazon against the Peru FTA’s implementation and related new foreign investors access rights to indigenous lands have been deadly. The August 2008 protests against the FTA’s implementation were quite calm compared to the May-June 2009 indigenous demonstrations sparked by the imminent implementation of the remaining anti-environmental FTA implementation decrees. In one confrontation alone, 34 protestors and police were killed.<sup>19</sup> Faced with this widespread unrest, the Peruvian Congress repealed two additional decrees that redefined forest land to permit more logging and mining.<sup>20</sup>

**Reality:** Vast new tracts of indigenous land have been opened to mining. Notwithstanding the repeal of the decrees noted above, between January 2008 and June 2009, the government auctioned 7,700 square miles of land for mining, including forest area that is the ancestral home of the Awajun and Wampis indigenous groups.<sup>21</sup> In addition to this legal mining, illegal mining in the Peruvian rainforest has skyrocketed since international gold prices have reached new heights (increasing 35 percent since FTA implementation).<sup>22</sup> According to press reports, the government estimates that 40 percent of that gold is illegally mined.<sup>23</sup> To extract the gold, miners use large amounts of mercury that renders nearby water sources undrinkable.<sup>24</sup>

**Reality:** Several laws passed in 2008 to implement the FTA that threaten the Peruvian rainforest and indigenous peoples remain in effect. The overall acreage of forest habitat is being auctioned off at an alarming rate: between the conclusions of negotiations of the FTA and implementation, the rate of forest habitat being auctioned off more than doubled.<sup>25</sup> There was a pause in concession grants in 2009 due in part to the huge protests by indigenous groups against the anti-environmental decrees, but this year the government plans to reopen the auction process.<sup>26</sup> The government has already scheduled seventeen oil blocks to be put up for auction.<sup>27</sup>

In addition, FTA implementation Decree 1020 encourages the breakup of communally held land by offering loans and other incentives to landholders who want to combine their land into larger property units.<sup>28</sup> This is similar to changes the Mexican government made to Mexico’s

<sup>18</sup> Letter to U.S. Congress from Alberto Pizango Chota, President of AIDSESEP, Oct. 30, 2007.

<sup>19</sup> Ángel Páez, “PERU: Congress Probes Massacre; Prime Minister to Quit,” *Inter Press Service*, June 16, 2009, Available at: <http://ipsnews.net/news.asp?idnews=47248>

<sup>20</sup> Ángel Páez, “PERU: Govt Partly Backs Down in Standoff with Native Groups,” *Inter Press Service*, June 19, 2009, Available at: <http://ipsnews.net/news.asp?idnews=47297>

<sup>21</sup> CooperAcción, Fedepaz and Grufides, “Informe Observatorio de Conflictos Mineros en el Perú,” July 2009, Available at: [http://www.muqui.org/observatorio/enero\\_junio\\_2009/index.html](http://www.muqui.org/observatorio/enero_junio_2009/index.html)

<sup>22</sup> See gold price estimates at: <http://www.usagold.com/gold-price.html>

<sup>23</sup> Lauren Keane, “Peru’s New Gold Rush Damages Environment,” *Washington Post*, republished in the *Seattle Times* on Dec. 19, 2009, Available at: [http://seattletimes.nwsourc.com/html/nationworld/2010550885\\_perugold20.html](http://seattletimes.nwsourc.com/html/nationworld/2010550885_perugold20.html)

<sup>24</sup> BBC News, “Peru’s gold rush sparks fears of ecological disaster,” Dec. 20, 2009, Available at: <http://news.bbc.co.uk/2/hi/americas/8411408.stm>

<sup>25</sup> “Oil and Gas Blocks Cover 75 Percent of the Peruvian Amazon,” *Environmental News Service*, May 28, 2008.

<sup>26</sup> Deutsche Presse-Agentur, “Preparan licitación de lotes petroleros peruanos para 2010”, Oct. 21, 2009.

<sup>27</sup> Deutsche Presse-Agentur, “Preparan licitación de lotes petroleros peruanos para 2010”, Oct. 21, 2009.

<sup>28</sup> Dana Ford, “Laws Criticized by Peru’s Indigenous Groups,” *Reuters*, June 6, 2009, Available at: <http://www.reuters.com/article/idUSTRE5551DK20090606>

revolution-era land reforms, which were enshrined in its Constitution.<sup>29</sup> The new Peruvian Law on Water Resources establishes a new agency to manage water resources that could be used to shift water access from indigenous communities to large corporate agribusinesses.<sup>30</sup>

### Other Issues

The Bush administration was directly involved in writing the Peruvian Decrees. According to *Inside U.S. Trade*, two teams of Bush administration officials actually traveled to Peru to draft and finalize at least 35 of the new Peruvian laws with the García administration.<sup>31</sup> As these decrees were announced, USTR Susan Schwab was very clear how FTAs allowed governments to make an end-run around their constituents: “What free trade agreements enable a country to do, and I am talking about the United States and its trading partner, is implement reforms that we should probably be doing anyway *but that could be difficult politically*. Part of our effort is working with Peruvian authorities to help them get there”<sup>32</sup> [emphasis added].

Besides pushing through these anti-environmental laws, the Peruvian president used his FTA implementation authority to deregulate the financial sector, even as the need to strengthen financial regulations has become apparent in the wake of the global financial crisis. Decree 1052, for example, obligates Peru to permit the emergence of new “financial products”, such as credit risk derivatives, if the government of an FTA partner permits them. Decree 1008 allows Peru’s privatized social security funds to raise the proportion of their securities linked to overseas economic activity from 20 to 30 percent.<sup>33</sup> Finally, the state agricultural bank can now originate securitized products and is more open to private investors, under Decree 995.<sup>34</sup>

### FTA IMPLEMENTATION PROTEST IN PERU: NON-STOP SINCE EARLY 2008<sup>35</sup>

- ❖ In February 2008, Peruvian farmers shut down the roads into the capital, and the Peruvian armed forces and police killed at least four people and detained 700 more.<sup>36</sup>
- ❖ By early July 2008, Peruvian farmers and workers had launched a two-day strike, cutting off tourist traffic to Peru’s famous Incan ruins, Machu Picchu.<sup>37</sup>

<sup>29</sup> In Mexico, the NAFTA-conforming amendments to Article 27 of Mexico’s Constitution broke up the *ejido* system and newly allowed foreigners to own farm land. This change is considered a major contributing factor to why U.S. corn dumping under NAFTA led to the displacement from formerly *ejido* of over two million Mexican *campesinos*. See Timothy A. Wise, “Reforming NAFTA’s Agricultural Provisions,” in *The Future of North American Trade Policy: Lessons from NAFTA*, (Boston: Boston University, 2009), at 35.

<sup>30</sup> Dana Ford, “Laws Criticized by Peru’s Indigenous Groups,” *Reuters*, June 6, 2009, Available at: <http://www.reuters.com/article/idUSTRE5551DK20090606>

<sup>31</sup> Erik Wasson, “New Peru FTA Decrees Anger Civil Society Over Labor, Environment,” *Inside U.S. Trade*, July 4, 2008.

<sup>32</sup> Lucien Chauvin, “Peru, U.S. Officials Work on Implementing Bilateral FTA, Aim for Jan. 1 Effective Date,” *BNA*, June 3, 2008.

<sup>33</sup> Available at: <http://agendamagna.wordpress.com/2009/02/13/reforma-de-la-ley-del-sistema-privado-de-administracion-de-pensiones/>. This modifies the Supreme Decree Number 054-97-EF, which is available at: <http://www.sbs.gob.pe/normas/leyes/tuo.pdf>.

<sup>34</sup> Available at: [http://www.agrobanco.com.pe/ley\\_29064.pdf](http://www.agrobanco.com.pe/ley_29064.pdf).

<sup>35</sup> All of this blow by blow can be found in <http://www.alainet.org/images/hechosanalisisymovilesdel1090.pdf>. Accessed July 14, 2009.

<sup>36</sup> Alex Emery, “Peru declares state of emergency on farm protests,” *Bloomberg*, Feb. 19, 2008.

<sup>37</sup> Dana Ford, “Peru farmers block roads, Machu Picchu rail,” *Reuters*, July 8, 2008.



- ❖ By August 2008, the FTA implementation-related decrees had come out, and Peruvian civil society demanded the retraction of many of them. Various congressional and emergency commissions were formed to deal with the demands that various Decrees be revoked, including one which conflicted with Peru's ratification of an ILO on indigenous rights. Over the course of the next seven months, the commissions issued reports calling for several of the Decrees to be revoked.
- ❖ On 9th April, indigenous groups initiated large-scale protests against the anti-environmental decrees and blocked major roadways. On May 9, 2009 the government declared a state of emergency in several Amazonian provinces.
- ❖ Between May 11 and 13, Alberto Pizango, the leader of Peru's main indigenous federation, AIDSESEP, met with the prime minister, but no accord was produced. On May 15, Pizango called for protests to escalate, but a period of dialogue lasted until May 22.
- ❖ On May 26-27, some members of Congress suggested revoking the Decree that was a main focus of the protests, but were blocked by procedural maneuvers by President García's ruling party allies on May 28 and then again on June 4.
- ❖ On May 28, a Peruvian NGO (DAR) sent a letter to U.S. Speaker of the House Nancy Pelosi (DCalif.) and Ways & Means Committee Chair Charles Rangel (D-N.Y.) asking that the FTA implementation protect indigenous rights. On June 2, the UN commission on indigenous rights requested that the Peruvian government respect indigenous rights.
- ❖ Indigenous protests escalated dramatically from June 5 to June 10. At least 30 indigenous people and police were killed. In the pre-dawn hours of June 5, Peruvian military police staged a violent attack on a group of indigenous people camped out on a peaceful blockade of a road outside of Bagua, in a remote area of the northern Peruvian Amazon. Several thousand indigenous peoples were forcibly dispersed by tear gas and live ammunition. Violence and protests continued for days.
- ❖ On June 10, Congress revoked Decrees 1064 and 1090 and restores the previous forestry law. The protests are called off.
- ❖ In December 2009, a working group convened to promote dialogue between the government and indigenous groups (*Grupo Nacional de Coordinación para el Desarrollo de los Pueblos Amazónicos*) finished its deliberations on recommendations moving forward. But the government unilaterally "approved" the recommendations in the absence of a consensus with the indigenous groups and regional governments.<sup>38</sup> The situation on the ground is fluid, and indigenous groups are outraged.<sup>39</sup>
- ❖ In January 2010, a member of Congress warned that there would be new protests soon if the remaining decrees were not revoked.<sup>40</sup>

Given the toxic contents of the Peru FTA, it is no surprise that no U.S. labor, environmental, consumer, faith, family farm, or development groups supported this agreement. Both of Peru's

<sup>38</sup> See report at: [http://www.justiciaviva.org.pe/webpanel/doc\\_int/doc05012010-160741.pdf](http://www.justiciaviva.org.pe/webpanel/doc_int/doc05012010-160741.pdf)

<sup>39</sup> See AIDSESEP press release, <http://www.aidesepe.org.pe/index.php?codnota=1174>

<sup>40</sup> "Congresista José Maslucán advierte que negativa del gobierno de derogar decretos antiamazónicos avivaría nuevas protestas." Available at: <http://www.aidesepe.org.pe/index.php?codnota=1185>



labor federations and its major indigenous people's organization all strongly opposed the trade pact.<sup>41</sup>

The American electorate also rejected the trade model that the Peru FTA embodied. Since congressional passage of the Peru FTA, 28 House members who campaigned against NAFTA and its expansion were elected to replace those who had voted for the Peru FTA.<sup>42</sup>

As the Office of the U.S. Trade Representative (USTR) initiates formal negotiations for the Trans-Pacific Partnership (TPP) agreement in the coming months, it must consult closely with Congress to ensure that the disastrous experience of the Peru FTA is not repeated. Specifically, USTR should ensure that the Peru FTA and any eventual TPP are changed to reflect the standards embodied in the spell out TRADE Act, which is cosponsored by a majority of House Democrats, committee chairs and subcommittee chairs from diverse caucuses within the party.

### **ANNEX: PERUVIAN LEGISLATIVE DECREES TO IMPLEMENT FTA**

Some of the decrees for which Garcia used his special FTA implementation rights to avoid Peru's Congress had nothing to do with the FTA. Others decrees are exactly what the FTA requires. According to various watchdog groups, the most controversial Garcia FTA implementing decrees were:

- Legislative Decree 1064, which promotes the privatization of indigenous and *campesino*-held lands by revoking certain procedural protections for these communities (established in 1995 by Law Number 26505<sup>43</sup>) and establishing a variety of circumstances under indigenous and peasant groups would lose their land grants. As noted above, this has been revoked for the moment, but the Peruvian government intends to develop a new version of it this year;<sup>44</sup>
- Legislative Decree 1079, which eliminates any laws that limit the central government's power of eminent domain in "protected natural areas;"<sup>45</sup>
- Legislative Decree 1090, which revises parts of the *Ley N° 28204, Ley de Transferencia de madera decomisada y sus normas modificatorias (2004)* and *Ley 27308, Ley Forestal y de Fauna Silvestre (2000)*.<sup>46</sup> In particular, the decree appears to eliminate so-called "forest plantations" and "land whose major use capacity is forest-related" from the definition of

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<sup>41</sup> For a sampling of some of this opposition, see Letter from Seven Afro-Peruvian Organizations (and Afro-Colombian Groups) to U.S. Congress, Nov. 7, 2006; Letter from Peruvian Labor Union Federations to U.S. Congress Aug. 20, 2007; Letter from Groups to Congress, Oct. 5, 2007. Available at: <http://www.citizenstrade.org/pdf/EnviroLettertoCongressaboutPeru1007.pdf>. Accessed July 21, 2009.

<sup>42</sup> One example of a challenger candidate successfully highlighting an incumbent's Peru FTA vote was now-Rep. Gary Peters (D-Mich.), who criticized incumbent Joe Knollenberg for his support of that and other FTAs. For more details on this shift in Congress, see Todd Tucker, "Election 2008: Fair Trade Gets an Upgrade," Public Citizen, November 2008.

<sup>43</sup> Available at: <http://www.indecopi.gob.pe/portalctpi/archivos/docs/legislacion/9-2005-1/26505.pdf>. Accessed July 14, 2009.

<sup>44</sup> Available at: <http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/01064.pdf>. Accessed July 14, 2009.

<sup>45</sup> Available at: [http://www.sernanp.gob.pe/colgar/DL/DL\\_1079\\_Prote\\_Patrimonio\\_ANP.pdf](http://www.sernanp.gob.pe/colgar/DL/DL_1079_Prote_Patrimonio_ANP.pdf). Accessed July 14, 2009. According to its text, "This regulation enters into force on the day following its publication." (<http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/01079.pdf>)

<sup>46</sup> Original legislation available at: <http://www.fonamperu.org/general/bosques/documentos/LF27308.pdf>. Accessed July 14, 2009.

“forest resources.” This would appear to lower environmental protections for this land, and protections for the indigenous groups who inhabit such land. Moreover, this decree was not formulated with the prior, informed consent of Peruvian indigenous groups, which led many organizations to call it in contravention of ILO Convention 169 on indigenous rights, which Peru has ratified. This decree has also been temporarily revoked, but the Peruvian government intends to develop a new version of it this year;

- Legislative Decree 1089, which creates a process to evict people from state-owned, otherwise unused land unless they can prove that they have been engaged in agricultural activities over a long period of time. Not even this exception applies if private investors are interested in developing the plot;<sup>47</sup>
- Legislative Decree 1015, which eliminates a special form of consultation (embodied in Peru’s Law Number 26505) with indigenous communities when private investors want to invest in their territories. This decree (together with a closely related decree, 1073, was initially retracted in August 2008 after indigenous groups’ protests and a Supreme Court ruling. It remains to be seen whether it will emerge in another form;<sup>48</sup>
- Legislative Decree 1020, which promotes the displacement of small, independent *campesinos*, in part by creating financial trusts that will subsidize small landholders that combine into “agrarian associations” that designate representatives with whom the government and investors can negotiate. These trusts can accept money from governments and any private source –opening up potential for widespread corruption-driven displacement;<sup>49</sup>
- Legislative Decree 1081, which appears to abolish independent organizations of water users;<sup>50</sup>
- Legislative Decree 994, which promotes the partial privatization of irrigation projects;<sup>51</sup> and

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<sup>47</sup> Available at: <http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/01089.pdf>. Accessed July 14, 2009.

According to the text, “This Legislative Decree enters into force on the day following the publication of this Regulation in the Official Gazette El Peruano”

(<http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/01089.pdf>)

<sup>48</sup> Available at: <http://www.servindi.org/pdf/DL1015.pdf>. Accessed July 14, 2009. Legislative Decree 1073 is also closely related to this matter.

<sup>49</sup> Available at: <http://faolex.fao.org/docs/pdf/per84456.pdf>. Accessed July 14, 2009. According to the text, “Through the Supreme Decree renewed by the Ministry of Economy and Finances and by the Ministry of Agriculture and in a period of time no more than sixty calendar days counted from the entry into force of this regulation, the rule will be approved.”

(<http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/01020.pdf>)

<sup>50</sup> The original legislation, Law Number 653, is here:

[http://www.google.com/url?sa=t&source=web&ct=res&cd=1&url=http%3A%2F%2Fwww.dar.org.pe%2FImagenes%2Fnor\\_mas\\_de\\_agua%2F12\\_DL653.doc&ei=-](http://www.google.com/url?sa=t&source=web&ct=res&cd=1&url=http%3A%2F%2Fwww.dar.org.pe%2FImagenes%2Fnor_mas_de_agua%2F12_DL653.doc&ei=-)

[fxcSqKvKI\\_kMOWSta4C&usq=AFQjCNHxS2ZVfofViizNWGGgkul0YHkIQ&sig2=fjxwaxYFr1xPTQNa0iVaaQ](http://www.google.com/url?sa=t&source=web&ct=res&cd=1&url=http%3A%2F%2Fwww.dar.org.pe%2FImagenes%2Fnor_mas_de_agua%2F12_DL653.doc&ei=-fxcSqKvKI_kMOWSta4C&usq=AFQjCNHxS2ZVfofViizNWGGgkul0YHkIQ&sig2=fjxwaxYFr1xPTQNa0iVaaQ). According to the text, “This law will be implemented, through a

Supreme Decree, with the approval vote of the Council of Ministers in a period of time no greater than 90 calendar days counted from its publication in the Official Gazette El Peruano.”

(<http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/01081.pdf>)

- Legislative Decree 1080, which eliminates several protected categories of seeds and their associated (higher) regulatory structure, and newly allowed the national seed regulator to delegate its enforcement actions to the private sector. It also eliminates as an objective of national policy that seeds be shared and utilized widely throughout the country. These measures modify the Law Number 27262 (the General Seed Law of 2000).<sup>52</sup>

***Writing and research by Travis McArthur and Todd Tucker, Public Citizen.  
Date: February 1, 2010.***

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<sup>51</sup> Available at: <http://www.portalagrario.com.pe/docum/DL994.pdf>. Accessed July 14, 2009. According to the text, “Through Supreme Decree with the approval vote of the Council of Ministers and in a period of time no greater than ninety days counted from the date on which this rule enters into force, the Regulation shall be approved.” (<http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/00994.pdf>)

<sup>52</sup> Available at: <http://research.cip.cgiar.org/confluence/download/attachments/17924162/Modificadorio+Ley+General+Semillas.pdf>. Accessed July 14, 2009. The 2000 seed law can be found at: <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/27262.pdf>. Accessed July 14, 2009. According to the text, “The current regulation will enter into force from the day following its publication in the Official Gazette El Peruano.” (<http://www.congreso.gob.pe/ntley/Imagenes/DecretosLegislativos/01080.pdf>)

## **LA DEMOCRACIA EN EL PERÚ: UNA TERCA VOLUNTAD**

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**abril del 2007**

**América Latina Hoy**

**RESUMEN:** La construcción de la democracia en el Perú es una vieja tarea que se realiza, aunque imperceptiblemente, lenta y tercamente tanto en la cultura política de los nuevos ciudadanos como en la organización política de la sociedad. El presente artículo es un ensayo sobre la aventura democrática en el primer lustro del siglo XXI yendo a las últimas décadas del siglo XX en el Perú, en las que la institucionalidad democrática adquiere nueva legitimidad, para entender las dificultades que los actores políticos encuentran y que se deben tomar en cuenta para hablar de la calidad de la democracia, en la línea que el artículo de Levine y Molina (2007) nos propone. Palabras clave: democracia, ciudadanía, sociedad civil, cultura política, representación.

**ABSTRACT:** The construction of democracy in Peru is a long standing challenge that has advanced slowly and stubbornly, if imperceptibly at time, in both the political culture of the citizens and the political organization of society. This article analyzes the «democratic adventure» in Peru in the first years of the 21st century in the context of the last two decades of the 20th, when democratic institutionalization achieved a new level of legitimacy, to identify the challenges to democracy that political actors have confronted. These elements will help analyze the quality of democracy along the lines proposed in the work of Levine and Molina (2007). Key words: democracy, citizenship, civil society, political culture, representation.

### **I. INTRODUCCIÓN<sup>53</sup>**

En varios países de América Latina, el año 2006 ha sido un tiempo marcado por elecciones presidenciales y parlamentarias. Bolivia, Perú, México y Ecuador son algunos de los casos donde las elecciones han puesto nuevamente a prueba a las instituciones democráticas, ya sea en su capacidad de realizar elecciones limpias y transparentes, de representar a los ciudadanos o de dar paso a un nuevo gobierno.

En el Perú, antes de las elecciones presidenciales del 2006, los indicadores de satisfacción y apoyo a la democracia eran los más bajos de la región. En el informe del Programa de las Naciones Unidas para el Desarrollo (PNUD, 2006) sobre la democracia en el Perú, el 70,6% de los encuestados<sup>54</sup> decía que «actualmente en el Perú la democracia existe pero funciona mal», y el 24,4%, que «no existe o que no vivimos en democracia», y sólo el 5% decía que «existe y funciona bien». Los datos del Latinobarómetro muestran consistentemente el descontento de los peruanos con la democracia y con el gobierno. Después de las elecciones, en el reporte de octubre del 2006 del Latinobarómetro la satisfacción de los peruanos con la democracia va del 13% al 23% con uno de los mayores aumentos del continente, pero en el ranking de países para esta variable sólo sube del último puesto al tercero, desde abajo. El indicador de aprobación del gobierno con el presidente García subió a 57%<sup>55</sup> colocándonos por encima del promedio

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<sup>53</sup> Agradezco los comentarios de los revisores anónimos de América Latina Hoy, Revista de Ciencias Sociales.

<sup>54</sup> El tamaño de la muestra PNUD 2006 fue de 11.215 casos y se ha trabajado con una confiabilidad estadística de 95% o 90%, según el grupo analizado.

<sup>55</sup> Este porcentaje se mantiene estable en los sondeos mensuales de diferentes empresas y universidades hasta el mes de febrero del 2007.

latinoamericano y mucho mejor si lo comparamos con el 16% de aprobación al anterior presidente, Alejandro Toledo, pero la confianza en el gobierno sigue por debajo del promedio continental con 37% y lo mismo ocurre con el 42% de confianza en el presidente sin especificar el nombre. Según el mismo informe, en el Perú el 32% cree que las elecciones son limpias, muy por debajo del promedio latinoamericano que está en 41% pero mucho mejor que en el Latinobarómetro del 2005 en que sólo el 13% creía que lo eran. El 18% opinó que se ejerce presión para conseguir el voto (cohecho), y sólo un 47% piensa que el voto puede ser eficaz colocando al Perú en el segundo lugar más bajo de América Latina, después de Paraguay. Sobre la participación en elecciones el 88% declara que participó en el proceso electoral, 0,7% menos del porcentaje real de votantes que fue del 88,7%<sup>56</sup> en las elecciones del 2006. En este indicador tenemos el segundo lugar más alto de América Latina, pero debe tomarse en cuenta que el voto es obligatorio en el Perú. Después de las elecciones, se ha recuperado la confianza en la Oficina Nacional de Procesos Electorales (ONPE) y en el Jurado Nacional de Elecciones según encuestas nacionales pos-electorales<sup>57</sup> lo que se mostró en la aceptación de los resultados por los candidatos perdedores.

## II. ELECCIONES Y CAMBIOS DE GOBIERNO EN EL PERÚ DEL SIGLO XXI

Si bien un proceso electoral pone en juego las instituciones fundamentales de la democracia, éste parece no ser el principal problema para la democracia en el Perú y quizá podríamos ampliar la hipótesis para la región andina.<sup>58</sup> La elección de Alan García en el 2006 es la tercera elección presidencial que se da en el presente siglo, después de la de Alberto Fujimori en el año 2000 y la de Alejandro Toledo en el 2001, luego de un breve periodo de Gobierno de Transición presidido por Valentín Paniagua, que le correspondió por ser presidente del Congreso de la República. Es decir, Alan García es el cuarto presidente del Perú en lo que va del siglo.

¿Quiénes son los actores que participaron en las elecciones del 2006. Entre los candidatos con mayores posibilidades estaban: Lourdes Flores Nano, del Partido Popular Cristiano formando parte del Frente Unidad Nacional, Alan García Pérez del Partido Aprista Peruano, y un tercer candidato, Ollanta Humala, respaldado por Unión por el Perú,<sup>59</sup> que lo acogió ante las dificultades de inscripción de su propio grupo, el Partido Nacionalista del Perú. Los seguían veinte candidatos más sin ninguna posibilidad de ser elegidos. Lo curioso de la situación es que pese al alto grado de volatilidad del voto en el Perú (Mainwaring y Scully, 1995), a la crisis de partidos existente y a la alta desconfianza en las instituciones, dos de los partidos líderes tenían una larga trayectoria política en el Perú y pertenecían a las grandes organizaciones internacionales, el social-cristianismo, en el caso de Lourdes Flores candidata por segunda vez, y la social-democracia en el caso de Alan García, ex presidente de uno de los peores gobiernos del

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<sup>56</sup> Las elecciones son obligatorias en el Perú y se paga una multa por no ejercer el derecho al voto.

<sup>57</sup> Según la encuesta del Instituto de Opinión Pública de la Pontificia Universidad Católica del Perú, tomada en el mes de diciembre del 2006 en Lima Metropolitana.

<sup>58</sup> Podríamos preguntarnos si las elecciones en sí mismas son un indicador de la calidad de una democracia o no. El exceso de elecciones podría ser un indicador que exprese una débil representación y canales de participación y control de los gobernantes, por algo hemos tenido ya tres elecciones en este siglo.

<sup>59</sup> Partido formado en 1995 por Javier Pérez de Cuéllar, candidato a la Presidencia de la República en oposición a Alberto Fujimori. Se reinscribe el 8 de marzo del 2005

siglo XX.<sup>60</sup> Sin embargo, lo que tenemos que entender es por qué el electorado peruano votó mayoritariamente por el tercer candidato, el outsider, mostrando una consistencia con las elecciones anteriores, que no podemos dejar de ver, en las que se votó por Toledo y por Fujimori, ambos con una trayectoria académica más que política. Ollanta Humala esperaba ganar en primera vuelta como su colega boliviano, Evo Morales, pero no lo logró. La segunda vuelta se definió entre él y Alan García, con el triunfo de este último por un pequeño margen.

El ganador en la primera vuelta es un ex comandante del Ejército sin experiencia política conocida, que protagonizó un levantamiento en contra del régimen de Fujimori cuando éste se encontraba ya en sus postrimerías, siendo indultado por el Congreso y lo que le permitió continuar en la carrera militar. Dado de baja del ejército en el 2005, después de dos puestos en el extranjero que lo mantuvieron alejado del mando de tropa, regresó al país como candidato a la Presidencia. Ha sido acusado de violaciones de derechos humanos en un poblado de la Amazonía durante el conflicto armado con Sendero Luminoso. No tenía partido político pero su hermano Antauro, con una trayectoria parecida pero involucrado en un episodio violento, sí tenía un partido organizado por reservistas del ejército con una ideología etnocacerista, consistente en levantar la identidad étnica y seguir el ejemplo del general Cáceres, caudillo militar quien resistió en los Andes durante la Guerra con Chile, llamada también del Pacífico.

El principal trabajo de Ollanta Humala fue diferenciarse de su hermano, con un nuevo partido y con una ideología nacionalista, sin connotaciones étnico-raciales. Pero no intentó diferenciarse en su identidad militar. En los mítines llamaba a los asistentes a jurar su lealtad a la bandera y a la patria, y se dirigía a ellos como el comandante del nuevo gobierno. Lo más importante de esta candidatura fue el resultado que tuvo, mostrando por primera vez un mapa político que agrupaba al electorado de las ciudades y provincias andinas, de Sur a Norte del país tras un candidato, en oposición a los electores de ciudad capital y de la costa norte del país.

El segundo candidato, Alan García, ex presidente del Perú y dirigente del partido con más larga trayectoria en el país, y una organización establecida, que había iniciado su campaña buscando la aceptación de las élites, dirigiéndose al capital extranjero y a los grandes empresarios nacionales para borrar la mala imagen que dejó en ellos su anterior gobierno, debió incluir rápidamente ante su nuevo adversario político temas

de agenda sobre la lucha contra la pobreza y la enorme desigualdad existente en el país, la mejor distribución interna de los recursos del Estado, la renegociación de los contratos con las empresas extranjeras, y la mejora de la calidad de los servicios públicos, deteniendo las privatizaciones. El resultado de las elecciones favoreció a García Pérez y, por lo tanto, al político frente al outsider, y éste podría ser un primer indicador de un escenario democrático prometedor al haber logrado elecciones limpias y aceptadas por los candidatos, pese al casi empate entre Lourdes Flores y Alan García en la primera vuelta.<sup>61</sup> Pero en estas elecciones no participó el partido en el gobierno, el presidente elegido no tiene mayoría en el Parlamento y no se puede hablar de un sistema político estable. El comportamiento político de los electores y de los políticos sigue siendo difícil de predecir y faltan trabajos sobre este tema que vayan más allá de las encuestas de opinión.

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<sup>60</sup> La afirmación se basa en los resultados de su gobierno en términos de la mayor inflación conocida en el país y en términos de procedimientos, el intento de estatizar la Banca a la mitad de su primer gobierno, y las violaciones de los derechos humanos durante el mismo gobierno.

<sup>61</sup> El empate llevó a Flores a decir que le habían ganado las elecciones en las mesas de votación, pero rápidamente aceptó el resultado.

En general, los partidos políticos recuperaron algo de su organización y de su capacidad de representación nacional para las elecciones, pero su debilidad e inestabilidad hace que sigan dependiendo del liderazgo carismático de personalidades políticas, lo que está en la raíz de la volatilidad del voto en el Perú.

La aprobación del desempeño del nuevo presidente a los dos meses de asumir el gobierno es alta en Lima con el 55% (Instituto de Opinión Pública de la Pontificia Universidad Católica del Perú, IOPPUCP, febrero, 2007), pese a haber enfrentado un nuevo proceso electoral que pudo debilitar la legitimidad de su gobierno. Esta posibilidad estaba presente porque, al igual que en el 2001, las elecciones presidenciales y parlamentarias se convocaron para el mes de abril, y antes que asumiera la Presidencia el ganador, se convocaron las elecciones para los gobiernos regionales y municipales que se realizarían en el mes de noviembre. La consecuencia de esta programación ha sido que el partido que gana la Presidencia tiene menos de seis meses para armar gobierno y poner nuevos candidatos para la siguiente contienda. Ningún partido parece tener cuadros para ambos procesos electorales y su derrota o ausencia en las elecciones regionales y locales puede afectar su legitimidad. Esto sucedió con Alejandro Toledo, quien teniendo un partido precariamente organizado y sin trayectoria política, apoyó a un candidato independiente para la Alcaldía de Lima que perdió las elecciones, y en las elecciones regionales no logró poner candidatos, ni ganar en ninguna de las 24 regiones del país. Con Alan García, quien sí tiene un partido político con tradición y presencia nacional, ha ocurrido algo similar, al colocar a Benedicto Jiménez, ex coronel de la Policía, como candidato del Partido Aprista Peruano (en adelante APRA) para la Alcaldía de Lima, quien no fue elegido. En las elecciones regionales el APRA sólo consiguió ganar en dos de veinticinco regiones, en Piura y en La Libertad, perdiendo en ambas regiones las alcaldías más importantes, lo que refuerza la hipótesis del mayor peso del candidato frente al partido.

El resultado de las elecciones regionales del mes de noviembre del 2006 puso en evidencia la precariedad de la institucionalidad partidaria y por lo tanto la capacidad de representación de sus electores. El APRA ganó las elecciones presidenciales, pero sólo ganó en dos de los 25 gobiernos regionales. El segundo candidato, Ollanta Humala, abandonó el partido político que lo llevó a las elecciones presidenciales, presentándose con otro partido a la contienda regional, sin alcanzar ningún gobierno regional. Mientras que el partido que lo acogió alcanzó el gobierno del Cusco. Algo similar ocurrió con Unidad Nacional. Las elecciones regionales permitieron la participación de 37 partidos y movimientos políticos regionales y nacionales.

En este nuevo periodo se puede analizar la calidad de la democracia en el Perú, como lo sugieren Levine y Molina (2007) diferenciando las dimensiones presentes en una democracia de los resultados del gobierno. Sin entrar a analizar los indicadores que proponen los autores citados, se analizarán las condiciones presentes en el Perú desde una perspectiva cualitativa, mirando el desarrollo de las instituciones y de la sociedad civil en la presente década, como resultado de los últimos 20 años del siglo XX. Se prestará atención a la institucionalización de la democracia desde el punto de vista de su legitimidad política, teniendo en cuenta la vigencia y universalidad de la ley y de los procedimientos. De la cultura política de los gobernantes y funcionarios, prestando atención a la independencia de poderes y a la noción de rendir cuentas, que sólo operan cuando existe un régimen democrático y se suspenden cuando opera el autoritarismo o la dictadura abierta. Y se llevará a cabo desde una perspectiva cualitativa, partiendo de la experiencia de ciudadanía de los peruanos.

El primer problema que se enfrenta es ¿cómo distinguir entre la legitimidad de las instituciones democráticas y los resultados de un gobierno democrático como nos proponen Levine y Molina. Tengamos en cuenta además que la experiencia de ciudadanía tiene como alternativa la

experiencia de ser súbditos, que es lo que ocurre cuando se produce un cambio de régimen político. ¿Cómo se legitiman los otros tipos de régimen y cómo afectan la cultura política y las instituciones democráticas. Una de las líneas de análisis propuestas será seguir la tercera búsqueda de la participación y la inclusión en la sociedad peruana de las mayorías excluidas, como una voluntad democratizadora de la sociedad y de la política.

### III. DEMOCRACIA Y CAMBIOS DE RÉGIMEN POLÍTICO EN LOS SIGLOS XX Y XXI

Para analizar la calidad de la democracia es importante plantearse la pregunta por lo que significa la democracia en el Perú tomando en cuenta lo que dicen Levine y Molina (2007) sobre la necesidad de reflexionar sobre la conexión entre procedimientos políticos y el orden social existente. Si se mira al largo plazo, durante el siglo XX, los periodos democráticos en el Perú se han alterado con asombrosa regularidad con las dictaduras, no sobrepasando la decena de años un régimen democrático, y la docena, un régimen dictatorial. Visto así, los gobiernos democráticos pueden ser analizados como intentos de construir una forma de gobierno para todos, interrumpidos por golpes de Estado en función de los intereses de la minoría dominante, apoyada por el consenso internacional o como breves paréntesis que interrumpían o permitían que se alternaran los dictadores en el gobierno del país. Esta última ha sido más bien la experiencia en muchos de los países de América Latina hasta la década de 1960 en la que el contexto de la Guerra Fría llevó al establecimiento de dictaduras modernas, más sistemáticas en su represión, y coordinadas internacionalmente en el contexto de la Guerra Fría.

Después de este tiempo de dictadura y sufrimiento colectivo, la democracia se convirtió en un horizonte deseable. Fernando H. Cardoso, Francisco Weffort, Guillermo O'Donnell, entre otros, recogieron el nuevo clima democrático que surgía en las mentalidades de las últimas décadas del siglo XX. Destacaban el nuevo sentido que adquiría la idea de democracia para los latinoamericanos, quienes después de dos décadas de dictaduras violentas volvían a confiar en la ley y en los procedimientos democráticos y en la política como medio para avanzar en sus intereses y conseguir resultados.

En ese contexto favorable el Perú debe haber sido el único país en la región que, saliendo de una dictadura no violenta, recuperó la institucionalidad democrática, para sumergirse casi inmediatamente en un violento conflicto armado interno y en una de las peores crisis económicas de su historia por la deuda externa y la mala gestión pública. Estas condiciones son suficientes para marcar la excepcionalidad del caso peruano y de su tercera voluntad por establecer una democracia que no puede afincarse unilateralmente en la clase política ni en la ciudadanía. Tiene que atravesar todos los actores sociales para que funcione. Por eso la importancia del supuesto fundacional de toda democracia que es la existencia de un pacto social, de un acuerdo nacional entre las clases sociales de reconocimiento mutuo de derechos y de igualdad garantizada por la ley. Este pacto no se ha dado y la resistencia a enfrentar el tema es una de las causas de la fragilidad de la democracia en el Perú. El informe de la Comisión de la Verdad y Reconciliación (2004) vuelve a plantear este problema al denunciar las grandes brechas existentes en la sociedad peruana que dividen a unos de otros por el idioma, la cultura, el territorio y el acceso a la educación y a la ley, y a los bienes necesarios para la vida. Pero se encuentra nuevamente con el rechazo de las élites y la negación a ver lo innegable.

Los regímenes dictatoriales y los autoritarios permiten en cierta forma dejar de lado la ley y que los ciudadanos, abdicando de sus derechos, se entiendan directamente con los funcionarios. Es lo que sucedió en el periodo de Fujimori, cuando el cierre del Congreso en 1992 fue recibido con un alto consenso popular lo que permitió que no se usara la violencia y que su significado político pasara desapercibido para las mayorías. En una reciente publicación del PNUD (2006: 113), el



44,6% de los peruanos está dispuesto a sacrificar de la democracia que «se cierre el Congreso» si el país se encontrara en graves dificultades económicas. Esto tiene que ver con la confianza y valoración que se tiene de las principales instituciones de la democracia, como son el Congreso y el Poder Judicial.

Las variaciones al interior del tipo de régimen contribuyen a ocultar formas de utilizar el poder, ante los ciudadanos. Con la pérdida de transparencia se pierden posibilidades de participación y vigilancia. Como dice Tanaka (2005: 20), el gobierno de Fujimori fue un «autoritarismo competitivo», que guardaba las formas democráticas pero gobernaba con una lógica autoritaria. Por eso, Tanaka también afirma que la competencia fue muy limitada. López lo ha llamado una dictablanda o democradura y Pease (1999), un gobierno mafioso. La consecuencia de esta ambigüedad en la práctica es el retorno a la distinción entre democracia formal y democracia real en la cultura política, que era común en las democracias oligárquicas latinoamericanas y que se había comenzado a abandonar en esta nueva experiencia democrática que había abierto el poder a otros actores. Hablar de democracia formal es aludir a la igualdad teórica que establece la ley entre los ciudadanos, oponiéndola a la democracia real, que reconoce la gran desigualdad que existe en la sociedad en todas sus esferas, lo que lleva a la participación directa y a las movilizaciones para exigir el cumplimiento de la ley y el respeto a los derechos, avanzando en la construcción de una sociedad realmente más igualitaria.

La distinción entre el valor de la democracia en sí misma y los resultados sociales y económicos que produce nos debería llevar a un análisis empírico que permita contrastar los logros y dificultades de un régimen frente a otro y los efectos en la cultura política y las opiniones de la gente. Como sostiene Grompone (1995: 54), los nuevos políticos vuelven a diferenciar la democracia formal de la sustantiva, descartando la primera si sienten que obstaculiza los propósitos de la segunda. Y para eso desprestigian a los actores políticos reduciendo la posibilidad de oposición, debilitando a los partidos políticos y a las mismas instituciones.

El nuevo autoritarismo ha estado respaldado también por la comunidad internacional que puso en la agenda la reforma del Estado buscando la tecnificación de la política, valorando así más la gestión, la gerencia y la eficiencia, que la construcción de instituciones. Grompone (1995: 55) resalta la coincidencia que se produce entre la crítica del gobierno y la opinión de la mayoría de ciudadanos en contra del estilo de gobierno del viejo Estado oligárquico. Efectivamente, hubo un momento en que en el país todos hablaban de reforma del Estado aunque esto significara algo distinto para cada actor. Desde Fujimori, que apuntaba a reducir el aparato del Estado y volverlo más «eficiente» sin discutir sus fines, pasando por Hernando de Soto quien buscaba disminuir la presencia del Estado para estimular el capital privado, hasta Abimael Guzmán, el enemigo que buscaba destruir el viejo Estado para crear uno nuevo, ya no oligárquico sino autárquico. Hoy ha quedado el énfasis en la gestión pública, pero se ha incorporado la importancia de las políticas de largo plazo que permitan proyección y acumulación. Lo que faltan son los objetivos integradores de una comunidad política y la noción de bien común en la cultura cotidiana del ciudadano.

La experiencia de la democracia sigue siendo débil y precaria en el Perú, no es posible hablar de una continuidad o de acumulación y aprendizaje, ni en las élites ni en los ciudadanos. La interrupción del sistema o del régimen político es una posibilidad permanente, y con él, el cambio en la modalidad de participación, y de organizarse como actores, lo que afecta también a las instituciones. Recordemos que todo elector en el Perú al cumplir 18 años, ya ha vivido la experiencia de dos o más regímenes políticos.

#### IV. DE MOVIMIENTOS SOCIALES A SOCIEDAD CIVIL Y A MOVIMIENTOS SOCIALES

Uno de los principales problemas para volver a establecer instituciones democráticas es la poca capacidad que éstas tienen para canalizar las demandas ciudadanas y de gestionar los recursos públicos como bienes públicos y no personales o privados. A esta dificultad se añade la capacidad o no que tienen de desmovilizar a la población que generalmente ha sido quien ha logrado producir las condiciones para un gobierno democrático con sus acciones políticas y que ha reforzado su conciencia ciudadana no sólo en términos de obligaciones sino de derechos. Si usáramos el esquema de agente/principal, en el contexto institucional de la democracia, la ciudadanía es el principal y el político es el agente. No en el sentido de actor, sino en tanto representante del ciudadano. Pero esta noción que puede ser clara en el esquema, no lo es en las relaciones de poder. Una vez que se restablecen las instituciones, el poder pasa por el agente, y no por el principal, hasta las siguientes elecciones.

La tarea es pues la de encaminar políticamente el interés y la voluntad de participar a través de canales de representación y otras mediaciones que harían más fácil el acceso de todos a la política. Esto permitiría a la población regresar a sus lugares de trabajo, a sus rutinas familiares, a la normalidad de la vida cotidiana, manteniendo una actitud crítica y vigilante mientras los cuadros especializados se ocupan de la tarea de gobernar.

El problema como dicen los expertos en poliarquía es que el supuesto para que esto opere es que el mercado y las otras esferas de acción funcionen y sean dinámicas. Si las dificultades propias del mercado son grandes, como en el caso peruano, entonces el Estado debe intervenir en sustitución.

Como sostiene Avritzer (2002), puede ser que en la anterior ola democrática cuyo centro estuvo en Europa, donde surge el modelo de desarrollo basado en la industrialización y organizado por el mercado, la participación ciudadana se entendiera como un desafío a la gobernabilidad, pero en América Latina es esta participación la que estaría permitiendo que se constituyan las instituciones democráticas y que el desarrollo como problema entre en la agenda política. En este sentido cabe decir que son la movilización y la participación las que pueden llevar a mejorar las condiciones para el funcionamiento de la democracia.

El concepto mismo de participación es definido de distinta forma por la sociología y por la ciencia política. En el primer caso, es la integración a una comunidad y el papel activo o pasivo que se desempeña en ella, mientras que en la política se restringe a la participación en los procesos electorales a través del voto. En el Perú, como en América Latina, el concepto sociológico es fundamental para la política. De la integración de los ciudadanos en los distintos niveles de la sociedad depende la posibilidad del pacto fundacional que se supone existe en una sociedad democrática.<sup>62</sup>

Uno de los indicadores que habría que mirar para evaluar la fortaleza o debilidad de la democracia es la capacidad de movilización que tienen los ciudadanos y los objetivos de su movilización. Los momentos de mayor movilización en el Perú son los que han antecedido a las democracias, como en el periodo entre 1976 y 1980 y posteriormente entre 1998 y el 2001. Estas movilizaciones requieren de un aparato organizativo y cultural que logre convertir las necesidades individuales en intereses comunes y convocar a la ciudadanía a acciones conjuntas, con un alto nivel de legitimidad para contrarrestar el riesgo.

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<sup>62</sup> Quizá también se puede analizar el carácter del pacto en una sociedad no democrática y qué sucede cuando éste se rompe

Generalmente, los movimientos sociales se desactivan solos al lograr sus objetivos, pero su potencial movilizador se mantiene latente en sus organizaciones. Éstas han llegado debilitadas al siglo XXI pero el último informe del PNUD (2006) da información al respecto de una manera un poco compleja. El índice que elabora muestra un patrón general de baja asociación y participación. Las variables que utiliza miden si la institución existe en la localidad, si al entrevistado le corresponde participar, si pertenece, asiste frecuentemente y si ha sido dirigente. Las instituciones que están más extendidas son los grupos religiosos (61,1%), los clubes sociales y deportivos (42,5%), las asociaciones de padres en los colegios (35%) y las asociaciones vecinales (23%), seguidas por los comités políticos (17,9%).

La desmovilización en el Perú ha sido bastante exitosa. Levine y Romero (2004) se refieren a este proceso como uno de desempoderamiento, en el sentido de que los actores sociales han perdido capacidad de sumar esfuerzos con objetivos comunes, han debilitado sus organizaciones y han dejado de ser un poder alternativo capaz de negociar a favor de sus intereses con las clases dominantes. Este poder se canaliza hoy día a través de organizaciones de otro tipo, que incluyen a las Iglesias, a las organizaciones no gubernamentales y a otro tipo de asociaciones que todavía tienen que hacer su camino.

La agenda de muchas de estas organizaciones tiene como objetivo fortalecer la institucionalidad democrática desde la sociedad civil. Se refuerzan las organizaciones y la formación del ciudadano para que conozca y defienda sus derechos, para que vigile y pida cuentas a los gobernantes y funcionarios. Sin otra ideología de por medio que la de la democracia y la ciudadanía, estas organizaciones pueden ser vistas como un peligro para la estabilidad del sistema, en el nuevo contexto de acumulación económica que se vive en América Latina. El gobierno puede orientarse fácilmente al servicio de unos pocos, dejando fuera la atención de las mayorías. En el Perú, el crecimiento de la economía se sustenta en el modelo de exportación primaria y no en el de desarrollo del mercado interno, lo que lleva a privilegiar a los inversionistas, sean éstos internacionales o locales, y no al trabajador o consumidor nacional.

Los movimientos sociales fueron durante décadas los principales canales de participación popular y de representación de los intereses de las clases trabajadoras y de los consumidores de bienes públicos. Pero el estancamiento y decrecimiento de la economía en la crisis de la década de 1980, y posteriormente con la apertura de mercados y el término de las políticas de protección en todo el continente, debilitaron a la clase trabajadora, agrandando el sector de mano de obra informal, y en servicios, con empleo precario e inestable. La pobreza aumentó y apareció la extrema pobreza como problema nuevamente. En ese contexto, la persistencia de las asociaciones y de organizaciones con distintos fines ha contribuido a la formación de conciencia ciudadana, de derechos, y a la participación encaminada tanto a los procesos electorales como a la expresión directa de intereses, necesidades y opiniones. Se puede hablar en el Perú de una sociedad civil plural y diversa, con algunos núcleos fuertes que no llegan a articular a una ciudadanía muy dispersa y desigual. La expresión más clara de la debilidad de la sociedad civil podría estar en la falta de partidos políticos que sean canales efectivos de participación, formación de opinión y acción política para los ciudadanos.

## V. SOCIEDAD CIVIL DE CIUDADANOS Y ESTADO DE SEÑORES: HACIENDO HISTORIA

Tomando el año 1980 como punto de partida para el restablecimiento de la democracia en el Perú, lo que quiero mostrar es la fuerza y la debilidad de las instituciones realmente existentes en la sociedad peruana y la dificultad de cambiarlas. Quisiera partir de la paradoja que se produce

durante el régimen de Velasco, autoritario y dictatorial sin lugar a dudas en términos institucionales, pero que permite que se avance en la formación de condiciones para la poliarquía y para la formación de ciudadanía. Es decir, se produjeron condiciones para la democratización de la sociedad, entendida como incorporación universal a la educación, al derecho de propiedad como oportunidad para todos (a través de las invasiones de tierras urbanas, de la reforma agraria y las formas diversas de propiedad como las cooperativas agrarias), y a la libre asociación (vecinos en Pueblos Jóvenes, los sindicatos, etc.). Lo menciono como una paradoja, y una situación llena de contradicciones, porque se dieron medidas como la reforma agraria que recortó el acceso a la propiedad de las élites terratenientes, pero también otras que ampliaron el acceso a la propiedad rural y urbana del campesinado rural<sup>63</sup> y de los que emigraron a las ciudades. La reforma educativa y la atención a la educación inicial y de adultos redujeron el analfabetismo. A la vez, por las características del régimen no se avanzó en la construcción de instituciones democráticas, pero no se destruyeron las asociaciones existentes, creando asociaciones paralelas en algunos casos, produciendo en el intento un espacio público participativo con elecciones y rotación de dirigentes, donde se buscó la autonomía del control del Estado. Muchas de las asociaciones vecinales todavía existen, según el informe del PNUD (2006: 65) en el 23% de las localidades tienen un nivel de participación de 63,4%, lo que es bastante alto.

Este proceso asociativo se reforzó con los movimientos espaciales de la población que se trasladaba masivamente del campo a la ciudad, organizándose para invadir terrenos para vivienda. Lo que cabe resaltar para nuestros fines es que el modelo de crecimiento de las ciudades a través de invasiones de terrenos y autoconstrucción y no sobre la base de un mercado de terrenos urbanos y viviendas dio lugar a una dinámica asociativa sin precedentes en el Perú. Podemos comparar lo sucedido con la movilización hacia el despoblado este norteamericano de masas de individuos emprendedores, arriesgados y pragmáticos buscando un futuro prometedor. En el Perú los que marchaban hacia el oeste, donde estaban las ciudades más pobladas, buscaban huir de la servidumbre de las haciendas o del estancamiento y empobrecimiento del campo, esperando encontrar mejores lugares donde vivir y asentarse con sus familias, aun a riesgo de sus propias vidas.

No tenemos información de la época sobre la cultura política, pero es posible que se diera un cambio importante entre los pobladores rurales y los emigrantes del campo a la ciudad, hacia una conciencia de ser sujetos de derechos económicos y sociales, en el sentido de una toma de conciencia del derecho moral,<sup>64</sup> ya que no legal, a tener algo y a ser reconocidos como personas. Si bien esperaban del Estado colaboración y respuesta, esta expectativa iba acompañada de un sentido de autonomía personal frente al gobierno militar del que conseguían beneficios a partir de sus demandas de servicios públicos y de su activa participación directa a través de los canales abiertos por el régimen (SINAMOS) o de los movimientos sociales (movilizaciones en demanda de agua, escuelas, postas médicas). Estos movimientos se venían dando desde finales de la década de 1980 e incidieron en la elección del primer gobierno de Fernando Belaúnde Terry (1963-1968) e indirectamente en el golpe de Estado que le dio término (1968-1980). Se produjo en cierta manera una afirmación de capacidades (Degregori, Blondet y Lynch, 1987), al darse la posibilidad de expresar intereses a través de la participación directa en organizaciones y luchas colectivas y de conseguir resultados con el propio esfuerzo, el trabajo voluntario y los aportes económicos. No se trataba ciertamente de virtudes cívicas en el sentido de Almond y Verba, pero sí de un resultado de lo que Sinecio López (1996: 123) describe como las «incursiones

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<sup>63</sup> Como sabemos, no en forma individual, sino colectiva a través de cooperativas y sociedades productivas. Pero también se dio la ampliación de la pequeña propiedad privada.

<sup>64</sup> En el sentido que le da el inglés al concepto de entitlement.

democratizadoras» en el paso de la «sociedad de señores a la sociedad de ciudadanos». En palabras de Arias (1994: 37)

los años del régimen militar generaron una enseñanza contradictoria para los peruanos: de un lado, confirmaron la mentalidad caudillista autoritaria que lo espera casi todo de un líder poderoso que está más allá de las leyes, las tradiciones y las instituciones. De otro lado, el discurso anti-oligárquico y nacionalista ayudó a quebrar aquella tradición de sumisión ante los poderosos, los distinguidos y los blancos.

Así, mientras el régimen militar produjo como un resultado inesperado sociedad civil y ciudadanía en un contexto autoritario, durante la democracia se debilitó la sociedad civil y se continuó reforzando la noción de señorío. Esto sucedió a pesar de las instituciones democráticas, que funcionaron paralelamente al drama que vivía el país. Quizá era también un resultado previsible del enfrentamiento de la violencia de Sendero Luminoso, producto de su cerrada ideología dogmática y organización vertical, con autoridades democráticas que encargaron a las Fuerzas Policiales primero y luego a las Fuerzas Armadas la solución del conflicto, cayendo también en la violencia como el único medio para lograr la paz.

Las asociaciones y organizaciones que se habían fortalecido en la década anterior desaparecieron o perdieron el espacio de acción que tenían, en vez de ampliarlo, y su propia institucionalidad se debilitó. En vez de abrirse progresivamente el espacio público político, asociativo y participativo, la convergencia del inicio del nuevo régimen con la violencia produjo el recorte de las libertades y de los derechos ciudadanos que hubieran correspondido en condiciones normales a una situación democrática. El debilitamiento y desempoderamiento de los sectores organizados se produjo al no tener las condiciones políticas ni económicas para oponer resistencia o hacer oposición.

En las décadas de 1980 y 1990, las principales organizaciones sociales llegaron a ser los comedores populares<sup>65</sup> y el programa municipal del vaso de leche, organizado por Alfonso Barrantes Lingán, de Izquierda Unida, cuando fue elegido alcalde de Lima en 1983 y que existe todavía. Las dirigentes de estas organizaciones no escaparon a los ataques de Sendero Luminoso que combatían por la hegemonía total. Acompañaban a estas organizaciones las asociaciones sin fines de lucro o organizaciones no gubernamentales, ONG y también comunidades cristianas y agentes pastorales de la Iglesia Católica y de Iglesias Evangélicas, así como de la Adventista.

El papel de las organizaciones de mujeres en la lucha por la supervivencia y la mejor calidad de vida ha sido muy cuestionado por los analistas sociales, porque era un claro signo del debilitamiento del movimiento obrero y de la propia ética del sistema capitalista en su capacidad de autorreproducción. Pero el capitalismo nunca se desarrolló en el Perú como ocurre en los libros de historia. El valor de las organizaciones que surgieron en esta década está en la capacidad de producir espacios asociativos de comunicación y expansión de la ciudadanía para las mujeres que no habían tenido un protagonismo igual en las décadas anteriores. Finalmente fueron cooptadas por el régimen de Fujimori y, junto con las otras organizaciones sindicales y populares, perdieron capacidad de movilización y de crítica. Otras organizaciones que surgieron en esas décadas fueron las rondas campesinas, primero en la sierra norte del país como defensa frente a los abigeos, y luego se extendieron o replicaron en otras zonas del país con un carácter de protección y defensa frente a la violencia armada, y por lo tanto desarrollándose en la misma lógica de control y sanción. Pronto surgieron las Comisiones de Derechos Humanos, primero

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<sup>65</sup> Autogestionados, parroquiales y vinculados a alguno de los partidos políticos que gobernaron en la década, es decir, las cocinas populares (AP) y los clubes de madres (APRA).

orientadas a la defensa de los derechos de las personas frente a abusos del Estado pero luego se amplió la definición de violación de derechos humanos para incluir a los afectados por los grupos armados Sendero Luminoso y Movimiento Revolucionario Túpac Amaru (MRTA), por incurrir en desapariciones y crímenes de lesa humanidad.

A estas organizaciones de base se unieron las organizaciones no gubernamentales que se habían multiplicado a fines del régimen anterior y que tuvieron que reubicarse al cerrarse los espacios de acción en muchos lugares del país, abandonando muchos de los proyectos de desarrollo en las zonas de emergencia, siendo también un objetivo del ataque de Sendero Luminoso y en algunos casos del Estado. Las Iglesias reforzaron progresivamente su presencia pública que había disminuido al iniciarse la democracia, a través de las Vicarías de la solidaridad, de la Comisión de Acción Social en el caso de la Iglesia Católica y de oficinas similares en otras iglesias.

Se puede entonces hablar de una ciudadanía y de una sociedad civil asediada y disminuida al igual que las instituciones de la democracia, pero que dieron la pelea por mantener un espacio público abierto, la vigencia de los derechos civiles y humanos, y participaron en los procesos electorales confiando en la democracia. No olvidemos que habían forjado su conciencia ciudadana en la lucha por sus reivindicaciones en un contexto no democrático. Lo que cambiaba el escenario político era que había elecciones y un conflicto armado interno que los colocó muchas veces en situaciones de quedar atrapados entre dos fuegos.

¿Cómo analizamos este proceso de formación de ciudadanía y de sociedad civil. Lo que se identifica como base de la formación de la sociedad civil, se da en el contexto de un régimen dictatorial con un proyecto modernizador, es decir, un modelo de cambio tipo junker, desde una élite militar, basado en el Estado y no en la sociedad civil, pero que respeta las asociaciones y elecciones libres en ese espacio asociativo. La oposición a ese régimen fue liderada por los partidos de izquierda, que se autodefinían como no electorales, con el objetivo de la toma del poder cuando las condiciones estuvieran dadas. Éstos fueron desbordados por lo que se llamó el movimiento popular, en el sentido que desbordaba lo clasista, para incorporar a las masas de pobres urbanos, emigrantes con identidades regionales, comerciantes, profesionales emergentes, mujeres, provincianos, entre otros. Las identidades únicas, monolíticas o simples fueron cuestionadas desde la otra modernidad en gestación que reclamaba el derecho a reconocer sus múltiples identidades.

Los nuevos actores fueron vistos como informales (De Soto), desbordando las instituciones existentes (Matos Mar), irrumpiendo en la historia (Gutiérrez) o como representantes de otra modernidad (Franco). Pero no fueron reconocidos por los políticos. Sus intereses comunes, si los había, no fueron elaborados políticamente de tal manera que pudieran identificarlos entre sí y como colectivo. Esto contribuyó a que se les viera como fragmentados y no «representables».

Rochabrún (2003), analizando los problemas de representación que se producen plantea «una hipótesis “ortodoxa”: la disolución del carácter de clase de los representados». Si ésta había estado vigente durante gran parte del siglo XX, al institucionalizarse la democracia nuevamente y formarse los partidos se perdió el sentido de representación que habían tenido en términos de derecha y de izquierda.

Para el liderazgo de los grupos de izquierda fue difícil el cambio de una cultura política de vanguardias y de cuadros militantes para el logro de objetivos de largo plazo, a otra de ciudadanos y representantes con agendas concretas que requerían de alianzas y negociaciones. La noción de una representación democrática verificada por el voto de ciudadanos no era cercana a

una de representación de intereses objetivos, que podían no ser percibidos por los individuos interesados, miembros de la clase representada, supuestamente engañados por las promesas burguesas de igualdad. El cambio de valores políticos fue difícil y no se logró en la década de 1980; pese a los intentos de formar una izquierda democrática y unida, que fracasaron. La práctica política de estos grupos también estuvo marcada por el conflicto armado interno que obligó a los cuadros partidarios de algunos de ellos a desarrollar una práctica democrática a la vez que seguían usando un lenguaje radical para competir con los cuadros de los partidos violentos que avanzaban en su lucha ideológica y en su reclutamiento compulsivo en el terreno de las organizaciones sociales.

Lo particular de la democracia en el Perú es que la democracia funcionó, con las limitaciones presentadas, pero sólo para la mitad del país, en donde se construían instituciones, se mantenía un espacio público abierto a la libertad de expresión, mientras que en la otra mitad que estaba en estado de emergencia, no existía la ley fuera de la autoridad militar. Entre 1980 y 1992, hubo tres elecciones presidenciales y parlamentarias, y cuatro elecciones municipales en todo el país. Y a la vez, estaban suspendidas las libertades individuales en la mitad del país, incluyendo Lima, y las asociaciones civiles privadas sin fines de lucro y las instituciones políticas vivían en constante riesgo de ser atacadas de uno y otro lado.

Esta situación fue posible por la distancia existente entre el Perú oficial y el Perú real, términos empleados por Jorge Basadre, historiador de la República en el Perú. Mientras el Perú oficial es el que imagina la Constitución, y en el que tratan de vivir algunos peruanos, afirmando la igualdad entre los peruanos (incluidos en este Perú), los derechos individuales, las libertades y leyes de avanzada copiadas de otros países, el Perú real es habitado por todos. Ahí viven las élites occidentales, educadas en colegios y universidades particulares, que hablan bien el idioma castellano y leen periódicos, aunque no siempre paguen impuestos y nunca hayan hecho el servicio militar obligatorio, ejerciendo relaciones de poder que no se llegan a despersonalizar, junto con todos los peruanos de la Costa, de los Andes y la Amazonía, con distintos niveles de manejo del castellano, y con doctorados o muy pocos años de educación a cuestas, desinformados pero opinando y con hambre pero activos. Unos y otros tienen derechos que no se llegan a reconocer, leyes que se sabe cómo evitar, actividades económicas emprendedoras pero que pueden pasar por un mercado paralelo y pagar cupo para sobrevivir. Es el mundo de los emigrantes del campo que llegan a las ciudades y empiezan construir sus viviendas ladrillo a ladrillo. De los que emigran al extranjero buscando el progreso y la liberación de lazos personales y relaciones de servidumbre que ya no los dejan avanzar más en su propio país. Y de grandes empresarios que buscan conocidos para conseguir más rápido sus objetivos. El Perú oficial y el Perú real no aluden a una diferenciación de clases, sino al país formal, diseñado legalmente, y al país informal, que responde al comportamiento real de sus ciudadanos y gentes. La distancia entre ambos existe en toda sociedad. En el Perú, la distancia es muy grande.

La distancia se agrandó y cambió cualitativamente durante el régimen de Alberto Fujimori, que Pease (1999) llama un gobierno mafioso, por las redes de corrupción que pasaron a ser parte del mismo sistema político. A lo que habría que añadir un sistema paralelo, con puntos de contacto no analizados, como son las redes del narcotráfico que operan en el país.

Otro elemento que no suele incluirse en los análisis políticos es el factor étnico, pero en un país como el Perú donde éste es un factor importante en el espacio privado, puede ser interesante notar el cambio étnico que se ha producido durante el siglo XX en las élites sociales y políticas, que pueden ser más cerradas que las económicas, y el impacto que esto puede haber producido en su cultura política. La referencia a las élites latinoamericanas las ha caracterizado como hispanas y

católicas, dando lugar a una especie de modelo latino cosificado que no corresponde con la realidad dinámica de este sector.

La migración europea al Perú en el siglo XX fue muy pequeña en comparación con la de otros países del continente que tienen grandes colonias españolas, italianas o alemanas. Pero los inmigrantes europeos que llegaron se incorporaron rápidamente a las élites criollas descendientes de españoles que habían favorecido la inmigración por motivos raciales explícitos. Si tomamos el concepto de Bordieu de distinción, ésta se ha producido en el Perú en el terreno étnico donde las élites blancas afirmaron su poder a partir de la legitimidad de su superioridad social y cultural. La élites criollas buscaron diferenciarse de la identidad indígena, a través del «blanqueamiento», que se consigue con el correcto manejo del idioma castellano y ahora del inglés, la educación en los colegios adecuados a los cuales asiste la élite blanca, residir en el distrito correcto, pasar el verano en playas exclusivas, y la pertenencia a clubes exclusivos. Y este proceso se reproduce en las élites locales, donde es muy difícil para el foráneo diferenciar por el fenotipo racial a unos de otros, pero donde está muy claramente establecida la distinción entre los *mistis*<sup>66</sup> o señores y los otros.

Es esta dinámica de distinción, que sigue vigente hoy, la que facilitó la integración a las élites de los inmigrantes extranjeros blancos. No sucedía lo mismo sin embargo con las migraciones de otros continentes que se integraron a las clases medias, siendo vistas con distancia por las élites, aunque se han ido incluyendo progresivamente, hasta alcanzar ingresar al círculo económico y social y finalmente al político durante el gobierno de Fujimori. Con un carácter más pragmático, sin tradiciones que mantener, ni lealtades que las obliguen a relaciones de reciprocidad, nuevos grupos familiares, de diferentes orígenes nacionales y culturales, incluidos los andinos y amazónicos, se han incorporado a las élites o presionan para hacerlo.

El mecanismo de distinción que opera espontáneamente en las élites criollas nacionales y locales podría jugar un papel en las elecciones. Por ejemplo, la elección de Fujimori fue una sorpresa para la clase política y un éxito para los sectores populares. Golpearon con su voto a los señores tradicionales, representados por Vargas Llosa en 1990 y por Pérez de Cuéllar en 1995, independientemente de sus ideologías y programas de gobierno. Los electores ampliaron el espectro de la representación más allá de la clase política, pero eligieron a un señor nuevo, quien aprendería a serlo gracias al carácter de las instituciones de la democracia que lo encumbran como tal. Fujimori es un señor porque ha sido rector de la Universidad Nacional Agraria, institución de prestigio, pero es nuevo porque surge de abajo, habla el castellano con dificultad, tiene el pelo negro y lacio, su movimiento corporal es torpe y rígido. Lleva con él a los protagonistas del «desborde popular» según Matos Mar: a los evangélicos y a emigrantes de provincias, y no europeos, muchos de ellos peruanos de primera generación, de origen extranjero no europeo, o a profesionales de universidades nacionales de Lima y provincias.

Alejandro Toledo fue elegido como señor nuevo porque parecía que iba a reunir los requisitos al haber estudiado en una universidad de prestigio y ser un profesional reconocido, y venía de abajo, de lustrar zapatos y de una familia de inmigrantes de Cabana a Chimbote. Hablaba el castellano con acento inglés, y su lenguaje corporal seguía siendo campesino. Pero no representó bien su papel de señor, aparecía débil y no fue aceptado por los otros señores, por lo que no recibió la aprobación de su audiencia ciudadana. Alan García se equivocó en su primer gobierno, fue un señor y fue expulsado de ese círculo. Pero ha recibido una nueva oportunidad

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<sup>66</sup> Significa blanco en quechua y es el nombre dado a los que tienen autoridad local.



## VI. CONCLUYENDO

Si el Perú oficial y legal está separado del Perú real ¿cómo afecta el tipo de régimen al Perú real. Es posible que un régimen dictatorial sincere esta relación y la haga visible: la ley pasa a estar en manos directas de los gobernantes, y no de las instituciones, y la población tiene que depender de su propia iniciativa, o recurrir a lazos personales o a presiones colectivas para obtener apoyo del Estado. A este sistema se le llama populismo o participación directa. Cuando se pasa a un régimen democrático, aparece la Constitución como garantía para todos los ciudadanos que podrán ejercer sus derechos con igualdad de condiciones. Pero ésta es vista como ficción cuando el Poder

Ejecutivo sigue negociando con la población de forma similar que durante el régimen autoritario o dictatorial. Con la mediación del Congreso hay que pasar por las leyes para obtener beneficios, y las leyes tienen un cuerpo de guardianes organizados: los congresistas y los abogados, que aparentemente limitan los beneficios para unos pocos. Una de las maneras de medir la calidad de la democracia podría estar en explorar las conexiones que existen y se perciben entre un Perú y el otro.

No es sólo la definición de la democracia, sino también su práctica, la que nace de una terca voluntad. La aspiración al reconocimiento de los otros, a acortar las distancias que nos separan, a no ser mirados como otros ajenos sino como iguales, son pequeños motores de la historia contemporánea que mueven a los peruanos a construir una democracia.

El afán por distinguirse unos de otros no se da sólo verticalmente, entre los ricos y los pobres o los poderosos y los débiles. Se da también horizontalmente entre las etnias, razas, regiones. Pero empieza a disminuir entre los emigrantes internos que miran al futuro y ponen la demanda de inclusión y participación en el centro de sus intereses.

Ésta puede ser una de las claves para analizar la calidad de la democracia en el Perú. Como dice Avritzer (2002) la oleada democrática latinoamericana se ha basado en la participación ciudadana que ha intervenido activamente en la creación de instituciones que garanticen elecciones limpias, el respeto al voto ciudadano, y el derecho a la representación de sectores que antes no podían acceder al poder.

Desarrollar la política como el espacio de integración de esta sociedad dividida es una de las posibilidades de legitimar la democracia por sí misma. Si la demanda principal es la de inclusión y reconocimiento, por acercar el Perú real al Perú oficial, la demanda principal es por construir la comunidad política y sus instituciones.

El Perú es un ejemplo de participación ciudadana y de inclusión progresiva, de su población, que no sigue una progresión acumulativa, lo que ocurre con muchos fenómenos que tienen que ver con relaciones de poder, ya que se han dado muchos episodios de ampliación de derechos que posteriormente se han perdido.<sup>67</sup> La terquedad está en seguir buscando caminos para lograr reconocimiento e igualdad.

Levine y Molina nos proponen analizar la calidad de la democracia con nuevos indicadores, que den cuenta de los elementos que intervienen en cada sociedad para permitir el funcionamiento de las instituciones y el encuentro entre los ciudadanos, y los que la dificultan. El contenido de este

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<sup>67</sup> No es una dinámica de lucha de clases avanzando en una dirección, es una lucha entre poderes regionales, étnicos, religiosos, y por supuesto con intereses económicos en juego, que no pueden simplificarse en una sola dimensión, ni plantearse linealmente. Tienen que estudiarse empíricamente.

artículo ha buscado explorar las condiciones difíciles que ha atravesado el Perú en el intento de construir una democracia poliárquica, que explican, en gran medida, la situación de las instituciones, de los partidos y de los ciudadanos. He recurrido al concepto de paradoja para explicar contradicciones, que no aparecen necesariamente en una línea continua de oposición pues muchas veces se trata de opuestos que se atraen. Avanzar en intentos de operacionalización y medición es una tarea pendiente, que debe llevarnos a ejercicios metodológicos creativos, ya sugeridos por los autores citados, y que pueden permitirnos salir de lo particular, para entrar a la comparación.

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## **“Peru: Concerted Fight Against Decrees that Clamp Down on Protests”**

Milagros Salazar

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Regional governors, legislators, trade unions and civil society groups in Peru are demanding the repeal of decree-laws issued by President Alan García that provide a legal framework for harsh repression of the social protests that have been raging around the country.

The first few days of August will bring new headaches for the government, which bills itself as social democratic. Provincial governors and the National Coordinator for Human Rights plan to challenge the most controversial aspects of the decrees as unconstitutional.

The head of the National Coordinator for Human Rights, Pablo Rojas, told IPS that his non-governmental organisation and a group of governors would present their complaint to Congress and the ombudsman's office, to initiate legal action in the Constitutional Court.

The Coordinator is also drawing up a report on the excesses allegedly committed by the García administration under the new decrees. The report will be submitted to the Inter-American Commission on Human Rights, which forms part of the Organisation of American States (OAS).

The measures, seen as an attempt to crush the current wave of protests, form part of 11 decree-laws that were adopted on Jul. 22 by the executive branch under special powers granted by the legislature to crack down on organised crime.

Among their most controversial aspects, the decrees ban public employees and officials who take part in protests or strikes from working for the state or engaging in politics, and make them liable to prison terms; classify strikes as illegal attempts at 'extortion'; and declare that members of the armed forces or police who injure or kill someone 'in the line of duty' cannot be held legally responsible or tried in court.

During the first year of the administration of García, who took office in late July 2006, eight people have already been killed in police crackdowns on protests, according to the Pro Human Rights Association.

The demonstrations held around the country have set forth a variety of demands, such as the elimination of outsourcing and subcontracting in the mining industry; an increase in the taxes paid by mining companies; a revision of the free trade agreement signed with the United States; and the repeal of an educational reform law that teachers say is aimed at privatising the system.

These grievances, which have brought hundreds of thousands of workers, small farmers, teachers and members of a variety of social organisations into the streets, refer to promises that García made in his election campaign.

But the government's response to the demonstrations has been to deploy more than 15,000 police officers, call out the armed forces to keep protesters from occupying public offices, and issue the new decree-laws that make it easy to clamp down on social protest.

The secretary-general of the Confederación Nacional de Trabajadores del Perú central trade union, Mario Huamán, warned that if the government does not back down 'from its attempt to repress social mobilisations, new pressure measures will be adopted.'

Huamán urged Congress to overrule the executive decrees, saying that if it failed to do so, it would be an 'accomplice to an abusive decision that seeks to silence citizens' claims and grievances.'

The opposition is also working to get certain parts of the decrees overturned. The centre-left Unión por el Perú (UPP) introduced a draft law last week to that end.

The secretary-general of the UPP, José Vega, told IPS that he would press for debate of the draft law in the first week of August, when the new legislature begins to meet, because 'basic rights are being violated.'

'A repressive policy towards protests is counterproductive, and paves the way for human rights violations and unrest and lack of governability,' said Rojas.

Some governors see the decrees as targeting provincial governments that have backed protests by different social groups in their districts.

Although García apologised to striking teachers on Saturday for calling them 'parasites' because they continued to draw a paycheck even though they were on strike, he did not say he was sorry for describing the leaders of protests in poor regions as 'crazy, suicidal and resentful.'

The popular demonstrations have mainly broken out in the southern regions of Huancavelica, Ayacucho, Puno and Apurímac, where poverty levels range from 75 to 89 percent, according to the national statistics institute (INEI).

In his speech to Congress Saturday, the president said his goal was to bring the poverty rate down from 50 to 30 percent in urban areas and from 45 to 20 percent in the countryside by the end of his term, in 2011.

The coordinator of the national assembly of governors, Vladimiro Huaroc, told IPS that he would ask the new speaker of parliament, Luis Gonzáles Posada, to push for the repeal of the decree that punishes the participation by public officials in strikes or demonstrations, because it violates the rights of regional authorities by prohibiting them from supporting the demands of their constituents.

Referring to the unrest in the country's poorest regions, Huaroc said it is true, as García stated, that the funds transferred to the regional administrations have significantly increased. 'But that is not sufficient,' he argued.

'What the head of state did not say (on Saturday) was that 80 percent of the funds transferred go towards the salaries of teachers, health professionals and other public employees, and that only 20 percent go into public spending,' he said.

'Conflicts between local communities and mining companies over pollution and protests by farmers demanding policies to help them survive the effects of the free trade agreement signed with the United States were fundamental issues that the president neglected to mention,' he added.

Governors and mayors from poor regions are working together to fight the decree-laws as unconstitutional. Most analysts also agree that the executive branch has exceeded the bounds of the powers it was granted to fight organised crime and has thus violated the constitution.

Constitutional expert Jorge Avendaño said the concept of 'crime of extortion' has been distorted, because it normally refers to the wrongful obtention of undue economic gain.

Samuel Abad, a former assistant defender of constitutional affairs in the ombudsman's office, told IPS that the decree that makes it illegal for governors and other public officials to take part in strikes or protests is ambiguous.

Congress did not give García 'a blank check' to issue such broad decrees, said Abad. However, he also clarified that the package of decree-laws included important provisions for fighting organised crime.

The ombudsman's office told IPS that it was drawing up a report on the decrees to submit to Congress, which has 10 days after they go into effect to reach a decision on the question.

Congress could repeal the decree-laws, as the UPP lawmakers are demanding, which would be faster than the legal challenge against their constitutionality.

But since last Thursday, the presidency of Congress is once again in the hands of a representative of the governing Aprista party.

In addition, ruling party legislators have introduced a draft law that would make it easier to remove regional authorities.

At the same time, the national government has alleged that some of the protests have been financed by provincial governments, and Comptroller General Genaro Matute informed IPS that he would approve an investigation into whether public funds have been used to that end.

Ombudswoman Beatriz Merino said the decrees are aimed at 'labelling public officials who take part in strikes as criminals' and at 'criminalising' protests.

'They are looking for ways to intimidate us; they want to back us into a corner,' Hernán Fuentes, governor of the southern region of Puno, remarked to IPS. Fuentes is the local official who has clashed the most with the government of Alan García.

Prime Minister Jorge del Castillo said the important thing is to govern with the constitution in hand, to keep Peru safe from unrest and chaos. 'Democracy is not disorder, and the country does not belong to the anarchy-mongers,' he said.

Avendaño said the government was making a mistake in trying to preserve order regardless of respect for the right to life, by declaring that members of the military and the police could not be charged for killing a person in the line of duty.

'This decree could open the door to abuses, because the police and members of the armed forces are also human and can make mistakes,' said Avendaño. 'That is why the decision to establish legal responsibility must be left in the hands of prosecutors and judges.' © NoticiasFinancieras - Inter Press Services - All rights reserved

## **“La Economía Política Del Tratado de Libre Comercio Entre Perú y Estados Unidos: La Política Comercial del Perú en el Contexto Regional.”**

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Este ensayo pretende situar la política comercial del Perú, tanto en su contenido como en sus objetivos, en el contexto de sus vecinos sudamericanos. La reciente visibilidad peruana en foros de diplomacia comercial multilateral y regional como el Foro de Cooperación Económica Asia-Pacífico (APEC, por sus siglas en inglés) y el Arco del Pacífico, así como la activa búsqueda de nuevos socios comerciales e inversionistas, han despertado sinergias y conflictos en Sudamérica. Vista en términos nacionales, esta política comercial difiere notablemente de la tradición comercial peruana en décadas recientes, aun si se considera la apertura unilateral propulsada dentro de las reformas ortodoxas de la década de 1990. Como se verá más adelante, estas diferencias dentro y fuera del Perú son el resultado de una combinación de factores que incluyen el posicionamiento de actores internos claves (tanto en el sector privado como en el gobierno) y la búsqueda de ciertos objetivos políticos dentro del Estado peruano que, al contrario que en otros países andinos, propician el activismo internacionalista en temas comerciales.

### **Jugadores de veto**

La política comercial peruana se caracteriza hoy día por una activa gestión de términos preferenciales para el comercio exterior mediante la negociación de acuerdos de libre comercio con socios claves. Los socios son seleccionados de acuerdo con una serie de criterios reflejados en análisis técnicos comisionados por el Ministerio de Comercio Exterior y Turismo (Mincetur), tema que en cierta medida coloca al Perú en una categoría particular entre los países latinoamericanos, donde por lo general este tipo de estrategia basada en consulta y análisis técnico suele faltar. De hecho, sólo Colombia, Chile y Costa Rica han hecho consultas nacionales tan extensas como la peruana antes de las negociaciones de libre comercio, aunque la racionalidad política y estratégica detrás de dichas consultas ha variado según las circunstancias nacionales.

Los acuerdos comerciales peruanos han involucrado diversos escenarios de negociación, que pasan por una negociación en bloque (como la que está llevando a cabo con la Unión Europea desde la Comunidad Andina), en asociación (como la primera etapa de la negociación con los Estados Unidos), bilateral entre países (como la de los Estados Unidos), bilateral con una región (Asociación Europea de Libre Comercio, EFTA), y varias modalidades simultáneas (como las discusiones generales en el foro APEC, a la vez que se avanzó en la concreción de acuerdos con socios particulares como China y Singapur). De esta forma, el Perú ha venido incorporando socios no tradicionales a su esquema de acuerdos preferenciales,<sup>1</sup> aprovechando algunos de los foros multilaterales antes mencionados, pero también avanzando con socios en términos propios, sin que medien canales institucionales o instancias coyunturales que faciliten los acercamientos. Las negociaciones cuentan con el apoyo de importantes segmentos del sector privado, con los cuales el gobierno peruano ha venido desarrollando una estrecha relación de trabajo (en los niveles técnicos y políticos) en virtud de una política comercial activa y aperturista.<sup>2</sup>

Esta política comercial contrasta fuertemente con las de los vecinos inmediatos del Perú, tanto los que están gobernados por la izquierda (Bolivia, Venezuela, Ecuador) como por la derecha (Colombia). Aun cuando el unilateralismo peruano guarda semejanzas con la política llevada adelante por Chile, las obligaciones institucionales de cada uno de estos países y los consecuentes marcos jurídicos dentro de los cuales las respectivas políticas comerciales deben enmarcarse son

notablemente diferentes. Por ejemplo, el Perú es miembro de una unión aduanera y está sujeto, al menos nominalmente, a una normativa regional; no es ésta la situación de Chile. Otros países andinos están sujetos a las mismas normativas regionales, y podría decirse que dependen tanto como el Perú de los mercados internacionales y las ganancias de las exportaciones. ¿Por qué estas divergencias entre las políticas comerciales de los países andinos? ¿Qué puede explicar este unilateralismo activo de la política comercial peruana?

Un importante punto de partida para contestar estas preguntas radica en la política interna del Perú, tanto en el contexto institucional –donde las decisiones de política comercial deben competir con otras esferas de decisión del gobierno–, como en relación con las influencias de sectores y actores en el sistema político, con intereses y preferencias que normalmente inciden sobre la política comercial. La formulación de la política económica en el país, incluida la comercial, pasó por un importante proceso de tecnificación y aislamiento de presiones políticas y sociales en la década de 1990, uno de los objetivos del proyecto de reforma económica propulsado durante las presidencias de Alberto Fujimori (1990–2000). El modelo económico, tanto en términos de políticas como de gestión, permaneció sin muchos cambios luego de la llegada de Alejandro Toledo (2001–2006) a la presidencia del país.<sup>3</sup> La continuidad de estas políticas es en sí un hecho importante en la gestión pública peruana: la apertura comercial quedó constituida en política de Estado, por encima de las contiendas electorales y los cambios de gobierno. La inclinación ideológica de los gobiernos peruanos (principalmente de centro-derecha, en contraste con otros países andinos gobernados por la izquierda) es condición necesaria pero no suficiente para explicar el activismo comercial peruano, la consistencia en las políticas y los contrastes con los vecinos. De hecho, aun entre los gobiernos de izquierda en el entorno andino hay cierto interés por concluir una negociación comercial con Europa (como en el caso de Ecuador).

La economía política de los tratados de libre comercio (TLC) peruanos cuenta con un número limitado de “jugadores” o instancias de veto, en comparación con sus socios andinos (particularmente Bolivia y Ecuador). La ausencia de estos jugadores de veto en el Perú y lo que ha sido la evolución reciente de la política comercial peruana apoyan evidencia empírica e investigación que sostiene que los países con mayor número de jugadores de veto entrarán en menor cantidad de TLC que los que poseen un número limitado de puntos y de jugadores de veto.<sup>4</sup> Por “jugadores de veto” la literatura entiende actores con capacidad y gestión cuyo consenso es necesario para efectuar un cambio en una política determinada (según la definición de George Tsebelis).<sup>5</sup> “Puntos de veto” se refiere a instancias o configuraciones institucionales que levantan dudas o incertidumbre sobre el curso de una política o la toma de decisiones y que pueden llevar a tranques, como por ejemplo, la estructura de votos en la legislatura o el proceso de aprobación de leyes, en el caso del Congreso de los Estados Unidos.

En el Perú no se registran esos elementos a raíz de ciertas coyunturas y circunstancias. El país cuenta con un Poder Ejecutivo relativamente fuerte, en comparación con un Parlamento que encima le ha delegado poderes sumamente amplios en materia comercial. Además, el Perú tiene un sistema de partidos fragmentado y debilitado que no es capaz de oponer una resistencia organizada y concertada a la política de los TLC (al contrario, por ejemplo, del caso uruguayo y la coalición de gobierno del Frente Amplio). Más aún, como resultado de políticas de reforma económica impuestas en el país durante la década de los noventa así como de las preferencias arancelarias otorgadas por el principal socio comercial del Perú (Estados Unidos), se desarrolló y consolidó una coalición empresarial multisectorial de apoyo a la exportación y la apertura comercial. Esta coalición incluye algunos de los sectores más competitivos del Perú y de alguna forma compensa por las desigualdades regionales y de otra índole, en la medida en que crea condiciones sectoriales transversales que abarcan diferentes regiones (y factores de producción



“fijos” según el esquema de Frieden, donde los menos competitivos pierden como resultado de la apertura).<sup>6</sup> Así se crean en algunos casos intereses comunes entre, por ejemplo, capitalistas y trabajadores, como en el caso textil. (Es necesario recordar aquí la presencia de una alta informalidad laboral en el país, lo cual incide sobre la capacidad organizativa y el ejercicio del potencial de veto por parte del sector de los trabajadores.)

La ausencia de estas circunstancias es un desarrollo reciente en la política peruana (desde la década de 1990 hasta hoy), lo cual es cónsono con la literatura sobre jugadores o actores de veto, en términos de la mutabilidad de las condiciones políticas que dan paso al surgimiento y empoderamiento de dichos jugadores o actores. Dicho de otra forma, este modelo contribuye a una explicación de por qué países con importantes jugadores de veto –como Bolivia y Ecuador por las disonancias regionales, pero también Brasil a raíz del sistema federal y el juego entre el Ejecutivo y el Legislativo– acceden a menos acuerdos de esta naturaleza.

Si bien estas condiciones políticas se condicen con las circunstancias de países como Chile, México o Costa Rica, que a su vez han tenido algunas de las políticas comerciales más activas y aperturistas de América Latina, es importante observar que esto no significa que en el Perú no haya perdedores relevantes como resultado del libre comercio. Como en el caso mexicano y chileno, la falta de visibilidad de los perdedores en el Perú, cuando no de oposición efectiva, puede muy bien responder a que éstos desconocen el carácter o la extensión de su pérdida, o a su inhabilidad para organizarse y oponerse efectivamente al libre comercio.<sup>7</sup> De manera similar, y considerando la explosión migratoria hacia las ciudades en los últimos veinte años, la creciente urbanización de la población peruana puede a su vez implicar cambios en sus intereses, al pasar de un rol como productores en el campo a un rol como consumidores en las ciudades.<sup>8</sup> De esta forma se podría concebir la preferencia por una política comercial aperturista en una población crecientemente urbana y consumista.

### **Del modelo exportadora la reforma del Estado**

La proliferación de TLC peruanos coincide con un *boom* exportador de *commodities* en virtud de los cambios recientes en la demanda internacional y los precios para tales productos. Este tipo de bienes están sujetos a volatilidad de precios, a *shocks* comerciales y, en casos como el de los textiles, a fluctuaciones de la demanda en mercados concentrados (Estados Unidos) con alta competencia (China).

En ese sentido, la apertura comercial y el *boom* exportador pueden ser combustibles para el crecimiento económico, pero sería muy peligroso considerarlos como el único motor. En primer lugar, la evidencia empírica sobre los vínculos del comercio con el crecimiento revela resultados mixtos, y no puede decirse que haya una relación directa e irrefutable.<sup>9</sup> Más aún, en circunstancias como la actual crisis económica mundial, en que por primera vez desde el fin de la Segunda Guerra Mundial el nivel del comercio mundial se ha contraído, las pequeñas economías abiertas con alto grado de dependencia de las exportaciones se han visto particularmente afectadas.

La respuesta peruana a este punto ha sido una apuesta por la reforma del Estado a través, o utilizando los mecanismos, de un TLC con los Estados Unidos. La implementación del TLC ha requerido, en esencia, 14 piezas legislativas cuya aprobación resulta intrínseca a la certificación por parte de los Estados Unidos de las condiciones necesarias para la entrada en vigor del acuerdo con el Perú. Sin embargo, en el contexto de la delegación de poderes conferida por el Congreso peruano al Ejecutivo, el gobierno ha propuesto 92 decretos legislativos que abordan una amplia variedad de factores de gobernabilidad económica y clima de negocios, que incluyen la promoción de inversiones y la creación de empleos, la reducción de los costos de hacer negocios,

e inversiones en infraestructura, vivienda y el campo, entre otros rubros. Algunos de estos cambios son muy ambiciosos –por ejemplo, la creación de un ministerio ambiental (en el caso de políticas directamente vinculadas con la implementación del TLC) y una Autoridad Nacional para el Servicio Civil (en el caso de las medidas “complementarias”).

Este esfuerzo es una característica importante de la economía política del TLC entre el Perú y los Estados Unidos, y de la política comercial peruana en general. De todos los países latinoamericanos que han concluido TLC con los Estados Unidos o con otros países avanzados, solamente México y el Perú han expresamente introducido la reforma del Estado como un objetivo central, o “macrometa”, de la conclusión de tal acuerdo comercial. Más aún, esta conclusión es importante desde el punto de vista de la política peruana, no sólo porque la reforma del Estado ha sido una asignatura pendiente en discusiones académicas y públicas en el país,<sup>10</sup> sino también porque en este sentido el Perú difiere marcadamente de los objetivos de otros países miembros de la Comunidad Andina (CAN), incluyendo a Colombia (que podría considerarse como un caso especial por tratarse de una sociedad en conflicto y porque ha experimentado ciertos procesos de reforma constitucional y ajuste macroeconómico que han reducido la percepción de necesidad de reformar el aparato estatal).<sup>11</sup> Más allá de los contrastes ideológicos, esto podría explicar las intensas preocupaciones por las divergencias con Bolivia en el interior de la CAN y lo que la implementación del TLC con los Estados Unidos podría significar para la organización. Si tomamos la normativa del TLC como pretexto y contexto para la modernización del Estado, y en la medida en que esta normativa excede, altera o subvierte normativa o jurisprudencia andina, estaríamos efectivamente hablando de una crisis de la CAN. Sin embargo, sería interesante verificar hasta qué punto entran en juego en el análisis de la compatibilidad entre leyes nacionales y regionales las diferentes perspectivas y agendas de cada uno de los países andinos que han opinado sobre la agenda peruana. Por ejemplo, es evidente el contraste entre las fuertes reacciones de Bolivia y las de Ecuador. En ese sentido, la CAN misma podría jugar un mayor papel, similar al que entidades centroamericanas como la Secretaría de Integración Económica Centroamericana (SIECA) y el Sistema de la Integración Centroamericana (SICA) jugaron en el proceso del Tratado de Libre Comercio entre los Estados Unidos, Centroamérica y República Dominicana (DR-CAFTA, por sus siglas en inglés), aun cuando en principio estamos hablando de diferentes tipos de acuerdos comerciales (bilaterales *versus* regionales). La ausencia de este análisis pone en evidencia los problemas que está atravesando la institucionalidad regional andina.

El objetivo de la reforma del Estado debería considerarse con mayor cuidado en un sentido adicional. Desde hace tiempo se vienen haciendo planteamientos sobre la relación entre el comercio internacional y la calidad de las instituciones (económicas y de otra índole). Aun cuando hay evidencia y estudios que apoyan la idea de que el comercio internacional podría ayudar a mejorar la calidad de ciertas instituciones, como el cumplimiento de contratos, el Estado de derecho y los derechos de propiedad,<sup>12</sup> algunos de esos estudios también revelan que estos efectos se ven condicionados por el tamaño de las empresas en la economía. Donde existe una alta concentración de firmas exportadoras, la apertura comercial podría empeorar la calidad de las instituciones, en la medida en que podría aumentar el poder político de una pequeña élite exportadora.<sup>13</sup> El tema se vuelve aún más problemático, o la probabilidad de que las condiciones empeoren aumenta, cuando se trata de un país pequeño que captura un porcentaje alto del mercado mundial en algún sector caracterizado por ganancias elevadas. El caso de la minería en el Perú es un importante y posible ejemplo de esta coyuntura, que debería ser observado y mantenido en perspectiva a través de este marco analítico.

#### Notas

1. A diferencia, por ejemplo, de la experiencia de los Acuerdos de Complementación Económica bajo el auspicio de la Asociación Latinoamericana de Integración (ALADI), aun cuando el tratado de libre comercio entre el Perú y el Mercosur, así como otros en proceso como el acuerdo con México, se ubican dentro de esta categoría, dada la condición de ambos países de miembros de la Asociación.
2. De hecho, es posible afirmar que por mucho tiempo han existido vínculos estrechos entre el sector privado peruano y el gobierno, y que la coyuntura actual es sólo una etapa más de esta relación. Véase Francisco Durand, *El poder incierto: trayectoria económica y política del empresariado peruano* (Lima: Fondo Editorial del Congreso del Perú, 2004).
3. Véase Eduardo Morón et al., *Tratado de libre comercio con los Estados Unidos: una oportunidad para crecer sostenidamente* (Lima: Universidad del Pacífico/Instituto Peruano de Economía, 2005) y Alan Fairlie Reynoso, “Peru: Trade Policy and International Negotiations” en Miguel Lengyel y Vivianne Ventura-Días (eds.), *Trade Policy Reforms In Latin America: Multilateral Rules and Domestic Institutions* (Houndsmills, UK: Palgrave Macmillan, 2004).
4. Robert O’Reilly, “Veto Points, Veto Players, and International Trade Policy”, *Comparative Political Studies*, vol. 38, N° 6, agosto de 2005, pp. 652–675; y Edward Mansfield, Helen Milner y John Pevehouse, “Vetoing Cooperation: The Impact of Veto Players in International Trade Agreements”, *British Journal of Political Science*, vol. 37, N° 3, julio de 2007, pp. 403–432.
5. George Tsebelis, *Veto Players: How Political Institutions Work* (Princeton, NJ: Princeton University Press, 2002).
6. Jeffrey Frieden, *Debt, Development, and Democracy: Latin America 1960-1990* (Princeton, NJ: Princeton University Press, 1991). La ausencia de jugadores de veto en el contexto de estas coaliciones transversales en el Perú explica en parte por qué aun cuando las preferencias comerciales de la Ley de Preferencias Arancelarias Andinas y Erradicación de Drogas (ATPDEA, por sus siglas en inglés) han sido otorgadas por los Estados Unidos a todos los países andinos, incluida Bolivia, se observan diferentes resultados en cuanto a políticas comerciales en la región.
7. Sobre el caso mexicano y chileno, véase Marcus Kurtz, *Free Market Democracy and the Chilean and Mexican Countryside* (Nueva York: Cambridge University Press, 2004).
8. Andy Baker, en este volumen; también Andy Baker, “Why is Trade Reform so Popular in Latin America”, *World Politics*, N° 55, abril de 2003, pp. 423–455. La mutabilidad de las preferencias de los actores económicos como resultado de cambios en su vínculo con los medios de producción ha sido analizada en otros contextos nacionales e históricos. Véase Cheryl Schonhardt-Bailey, *From the Corn Laws to Free Trade: Interests, Ideas, and Institutions in Historical Perspective* (Cambridge, MA: MIT Press, 2006).
9. Para un resumen de los argumentos y una visión escéptica sobre los vínculos entre la política comercial y el crecimiento económico, véase Ann E. Harrison y Gordon H. Hanson, “Who Gains from Trade Reform? Some Remaining Puzzles”, *Journal of Development Economics*, vol. 59, N° 1, 1999, pp. 125–154.
10. Roberto Abusada et al. (eds.), *La reforma incompleta: rescatando los noventa* (Lima: Universidad del Pacífico/Instituto Peruano de Economía, 2000).
11. Véase Alberto Alesina (ed.), *Institutional Reforms: The Case of Colombia* (Cambridge, MA: MIT Press, 2005).
12. Véase Sambit Bhattacharyya, Steve Dowrick y Jane Golley, *Institutions and Trade: Competitors or Complements in Economic Development?* (inédito, 2008); Quy-Toan Do y Andrei A. Levchenko, *Trade, Inequality, and the Political Economy of Institutions* (WPS 3836, The World Bank, febrero de 2006); y James Mosher y Robert Franzese, *Trade Globalization, Politics, and the Choice of Policies and Institutions: Three Varieties of Institutional Divergence* (inédito, 2001).
13. Do y Levchenko, ob. cit.

## “Peru’s Confidence Gap”

Julio Carrión  
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Peru stands out as one of Latin America's economic success stories—even beating out some of its larger neighbors who have escaped the worst effects of the global economic meltdown. While Latin America's economies grew an average of 4.6 percent in 2008, marking the fifth consecutive year of economic growth at rates exceeding 4 percent, Peru ended last year with a record four-

year run of growth at rates above 6 percent. In fact, in both 2007 and 2008, it was the second fastestgrowing economy in the region.

Peru's good fortune is expected to continue. The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) has predicted that economic growth in Peru will reach 5 percent in 2009-the highest growth of all Latin American countries and more than twice the expected rate for the whole region.<sup>1</sup>

So why are Peruvians so anxious? Recent public opinion polls show that most Peruvians exhibit a degree of discontent with their political institutions that is usually associated with situations involving civil strife and economic stagnation.

On the surface, Peruvians should have a lot to feel optimistic about. The high inflation of the late 1980s and early 1990s, reaching an astonishing 7,481 percent in 1990, is now just an unpleasant memory. Last year, Peru's inflation rate was 6.7 percent, two percentage points lower than the average for Latin America. According to ECLAC statistics, the percentage of people living in poverty in Peru also fell from 48.6 per cent in 2004 to 39.3 percent in 2007.

The polls, however, highlight a problem that goes much deeper than concerns about economic security: the absence of trust in public institutions. Data from AmericasBarometer, led by the Latin American Public Opinion Project (LAPOP) of Vanderbilt University under the direction of Mitchell Seligson, show that Peruvians exhibit very low levels of political trust<sup>2</sup> as measured by an index that combines five questions probing respondents' confidence in the national government, the judiciary, the Supreme Court, the National Congress, and political parties. The index (see figure 1) ranges from 0 (no trust) to 100 (a great deal of trust).<sup>3</sup>

A well-functioning polity requires a healthy degree of citizen confidence in government and related bodies. In the absence of such trust, national institutions become vulnerable to antidemocratic threats. Figure 1 shows that similar concerns exist in several other Latin American nations, with Mexico, Uruguay, Jamaica, and Colombia hovering around the mid-point of the scale. But the table shows the average score of trust in institutions in Peru is the third worst of the region. This is not, unfortunately, an anomaly. Peruvian scores also ranked very low in the region in 2006.<sup>4</sup>

Criticisms of a country's political institutions do not necessarily spell doom for democracy, but low support for the very idea of democracy could have deleterious consequences. While the great majority of Latin American citizens endorse the statement "democracy is preferable to any other form of government," Peruvian support for this statement is notably less impressive (see figure 2). The table shows that approximately 67 percent of Peruvians endorse democracy as their preferred form of government, one of the region's lowest numbers. In Venezuela, Costa Rica, Panama, Argentina, and Nicaragua, support for democracy is above 80 percent.

Another way to measure political discontent is by asking people their degree of satisfaction with the way democracy works in their country. AmericasBarometer reveals that about 65 percent of Peruvians feel "dissatisfied" or "very dissatisfied." This is the third-highest level of dissatisfaction reported in the region, exceeded by the percentages reported in Haiti (66 percent) and Paraguay (80 percent).

The "confidence gap" between impressive economic growth and citizen satisfaction raises important questions that should concern Peru's governing establishment. Countries that have exhibited more modest economic growth in recent years report higher levels of political satisfaction than Peru. It is important to note that Peruvians have not always been so critical of their institutions. The AmericasBarometer data is fairly recent, so to identify trends we need to use the Latinobarómetro data.<sup>5</sup> These surveys show that Peruvians had a fair degree of satisfaction with the way democracy worked in 1996. With 28 percent of respondents declaring satisfaction, Peru ranked sixth among 17 Latin American countries that year. A comparison of the Latinobarómetro data for 1996 and 2008 shows that only Costa Rica and El Salvador exhibited a similar decline. But Peru's 12-point reduction far outreached Costa Rica (7-point drop) and El Salvador (3-point drop).

### Why the Disconnect Between Economics and Politics?

A closer look at the economic statistics offers one explanation for why Peruvians have become alienated from their political institutions. Despite the nation's significant growth in economic output, economic indicators that are closer to people's daily lives show less impressive performance.

Take real income, for instance. Average real wages in the cities have risen modestly in the last decade, by 8.3 percent between 1996 and 2007 (according to data released by Peru's Instituto Nacional de Estadística e Informática). But this figure hides the important fact that wages have largely remained stagnant since 2000. The most recent of ECLAC's annual Social Panorama of Latin America studies shows that incomes in Peru grew on average a paltry rate of 1.2 percent in 2006, and actually declined by 1.8 percent in 2007. The economic boom has evidently not fattened the pockets of ordinary Peruvians.

Unemployment figures are another indication of the inequitable impact of Peru's economic growth. ECLAC reports that urban unemployment remained virtually unchanged in 2008 in relation to the previous two years. It was 8.3 percent in 2008 and 8.4 percent in 2006. To be sure, there has been some improvement in this indicator: unemployment was higher in 2005 (9.6 percent), but it is also clear that job creation is lagging. The low levels of political trust arguably register Peruvians' disappointment that their government has not done more in this regard. While a small minority of less than 10 percent (according to the 2008 AmericasBarometer poll) rates the national economy as "good" or "very good," a solid 40 percent describes it as "bad" or "very bad." These figures differ very little from those reported in 2006. The overwhelming majority (more than 70 percent) of Peruvians still continue to cite the economy as the main problem facing the country.

### The Twin Evils Of Crime And Corruption

Another key factor in Peruvians' lack of confidence in their political institutions is the continued prevalence of crime and corruption. Peruvians report one of the highest levels of crime victimization in the Americas. About a quarter of those polled in 2008 state that they (or a member of their families) were victims of a crime in the previous year. Only residents of Argentina reported a higher degree of victimization that year. Moreover, a high percentage of Peruvians (55 percent) feel unsafe in their neighborhoods, and more than two-thirds declare that the current levels of delinquency significantly threaten their future welfare.

Corruption also undermines citizens' trust in institutions and officials. About 27 percent of those polled in Peru in 2008 acknowledge having been a victim of at least one act of corruption (being asked for a bribe or extorted). Although this number pales in comparison to the one reported in Haiti (48 percent), it is the fifth highest found in the Americas. Similarly, there is a widespread perception that public officials are corrupt, with 47 percent of Peruvians stating that corruption among public officials is "very generalized."

Other Latin American citizens report levels of crime and corruption victimization close to those reported by Peruvians, but they do not seem to distrust their political institutions to the extent that Peruvians do. For instance, Chileans and Uruguayans acknowledge having been victims of crime in proportions that are close to the ones found in Peru. Mexicans declare they are affected by corruption at higher levels than Peruvians. And yet, the confidence level of Chileans, Uruguayans and Mexicans exceeds that of Peruvians (see figure 1).

### Unfulfilled Citizenship

These factors combine with another pressing issue of governance. Peru is a country of profound social inequalities, and most Peruvians feel that the state is either too weak or compromised to defend their interests. Peru's indigenous population which, according to different estimates, ranges from one-third to 45 percent of the country's population, residing mostly in the Andean highlands, fares very poorly on most social and economic indicators. While poverty has declined significantly in the last five years as a result of economic growth, it continues to be disproportionately high among indigenous people. Peru's Instituto Nacional de Estadística e Informática reports that the regions with the greatest proportion of indigenous populations are also the ones with the greatest levels of poverty.

Another injustice perceived by poll respondents is that the state does not represent all citizens. The 2008 Latinobarómetro survey reports that only 8 percent of Peruvians, the lowest percentage found among all Latin American nations, believe that the country "is governed for the good of the people" as opposed to being "governed by some powerful groups for their own benefit." In contrast, about half the respondents in Uruguay believe their country is governed for the benefit of the people.

Similarly, most Peruvians do not believe that the rule of law is fully established in their country, that public institutions work effectively, or that public services are adequately provided.

The same Latinobarómetro survey asks respondents to place their country on a 1-10 scale, where 1 corresponds to the statement "the state is unable to enforce any laws" and 10 represents "the state is able to enforce all the laws." While the average on the scale for all surveyed countries is 5.2, both Peru and Paraguay register an average of 4.4, the lowest among all nations. Moreover, when asked whether public institutions are doing a good job, only 7 percent of Peruvians respond that they do a "good" or "very good" job. That is a stark contrast with Peru's regional neighbors such as Ecuador (29 percent), Bolivia (14 percent) and Chile (21 percent). When asked about satisfaction with public services, both Peru and Paraguay are again the countries with the lowest levels.

Given the poor record in improving incomes, reducing unemployment and upgrading public services, it is no surprise that most Peruvians have been critical of the market-oriented policies launched over a decade ago (and which presumably account for Peru's macroeconomic success).

During the administration of former President Alberto Fujimori, Peru became one of the most aggressive market reformers in Latin America, privatizing stateheld enterprises, lowering tariffs and tightening the public budget.

The 2008 Latinobarómetro survey shows that less than half of Peruvians agree with the statement that "a market economy is the system through which the country can become developed." In contrast, Paraguayans, who display many of the same critical attitudes toward the political system, exhibit very strong support for market policies (around 75 percent). Those marketoriented policies have continued beyond the Fujimori government, creating a situation in which Peru's policymakers and economic elites are committed to an economic orientation not shared by the majority of Peruvians.

### Historical Disappointments

Finally, another factor more difficult to quantify may also explain the deep disconnect between Peruvians and their political institutions. At key moments in their history, Peruvians have rallied behind governments that promised change, but those early hopes have always turned into bitter disappointment. The memories of these unfulfilled hopes clearly linger.

In 1968, General Juan Velasco Alvarado assumed power as head of a military junta. His regime enacted a series of policies that dramatically altered the economic foundations of the country. A sweeping land reform was enacted, the educational system was reformed, and many foreign companies were nationalized. Similarly, progressive labor legislation was introduced and the participation of the state in the economy greatly increased. Widely popular in its initial years, the military regime steadily lost support and turned repressive in response to mounting protests.

A palace coup in 1975 brought to power General Francisco Morales Bermúdez. As he adopted harsher stabilization policies, the protests increased—culminating in a 1977 national strike. Soon thereafter the regime announced a timetable to return power to civilians. By the time the military returned to the barracks it was widely despised and rejected, and many of its policy initiatives would eventually be overturned. Initial enthusiasm with a reform-oriented government ended in failure.

The return to civilian rule in 1980 renewed citizen hope and optimism. The election of Fernando Belaúnde, leader of the Acción Popular party, seemed poetic justice: he had been deposed by the military back in 1968. Yet those hopes were tempered as Belaúnde proved incapable of dealing with an escalating economic crisis and a growing domestic insurgency. In 1985, Peruvians elected Alan García, a young and charismatic politician who led the Alianza Popular Revolucionaria Americana (APRA), the country's oldest party. It was an important historical crossroads: APRA had been repressed by the military for more than four decades. But the enthusiasm that accompanied his victory soon vanished as García failed to control both inflation and emerging domestic terrorism. By the end of his term he was considered one of the worst presidents in Peru's recent history.

The election of Fujimori in 1990 marked a turning point. With no experience, and no political party behind him, Fujimori challenged a political establishment that was widely perceived as ineffectual, if not corrupt. On April 5, 1992, he shut down Congress, dismissed the Supreme Court and began ruling by decree. Again, his "Fuji-coup," as it came to be known, was greeted with enthusiasm by Peruvians disillusioned with their previous leaders. Initial public approval

soared to 80 percent according to some polls at the time, and subsequent policy successes, such as the taming of inflation and the victory over the country's brutal domestic terrorist movement, Shining Path, cemented popular support. Peruvians ignored Fujimori's increasing authoritarianism, returning him to office in 1995 with a commanding 64 percent majority. But when Fujimori secured a third term in a highly contested and controversial election in 2000, cracks in public support began to appear. Soon after the election, a video showing Vladimiro Montesinos, Fujimori's chief of staff, bribing an elected congressperson to switch parties was leaked to the press. Mounting public hostility, fanned by allegations of criminal misconduct in all corners of his administration, eventually forced Fujimori to resign. These revelations had a profound impact on the national psyche and contributed to deepening citizen distrust in political institutions. A jaded nation seemed to have concluded that nothing good could be expected from the political class.

In 2001, Peruvians elected Alejandro Toledo, a U.S.-educated economist of indigenous background. He attracted not only the support of the poor in cities and rural highlands but also that of the urban middle class. Unfortunately, his government, while impeccably democratic, failed to live up to expectations. Toledo endured very low approval ratings during most of his administration. In 2006, in a spectacular comeback that can only be explained by the fear produced by his principal rival, the pro-Chávez Ollanta Humala, Alan García returned to power. But this time, there were no enthusiastic demonstrations. Peruvians seemed to accept him, reluctantly, as the lesser of two evils.

Peru's crisis of public confidence underscores the need to see beyond economics as the sole cause, or cure, of political problems. For too long, decision makers have been obsessed with issues of economic stabilization and growth, all the while neglecting the serious deficit of citizen trust.

Closing the confidence gap requires a concerted effort to fully establish the rule of law, fighting the twin evils of crime and corruption and providing good services, but also, and perhaps more important, delivering good government. This may help erase the painful memories of past governments, and in the process regain popular confidence in public institutions. But there is a need for deeper, far-reaching reform that improves the operation and accessibility of government for average Peruvians. Until that happens, impressive macroeconomic numbers will not be enough for the majority of indigenous and disenfranchised Peruvians to overcome their sense of distrust toward and distance from the state.

#### **[Footnote]**

##### ENDNOTES

1 "Preliminary Overview of the Economies of Latin America and the Caribbean: 2008," ECLAC, December 12, 2008, <http://www.eclac.org/publicaciones/xml/4/34844/LCG2401i.pdf> (accessed June 8, 2009).

2 Unless noted otherwise, all public opinion data cited in this article come from this source. See [www.lapopsurveys.org](http://www.lapopsurveys.org)

3 Since trust in some of these institutions could be affected by the level of presidential popularity, the AmericasBarometer removes this impact from the scale through a statistical procedure.

4 Julio F. Carrión and Patricia Zárate, *Cultura Política de la Democracia en el Perú: 2006* (Lima: Instituto de Estudios Peruanos-Vanderbilt University, 2006). 5 The Latinobarómetro is a Chilean private corporation that now conducts yearly polls in 19 Latin American nations. It started conducting polls in a handful of countries in 1995. Its reports can be found at <http://www.latinobarometro.org>.



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**Peru**

**I. Summary**

Peru is the world's second largest coca cultivator and producer of cocaine and is a major importer of precursor chemicals used for cocaine production. The Government of Peru (GOP) is committed to full cooperation on counternarcotics matters and Peru is a party to the 1988 UN Drug Convention. Authorities eradicated 10,025 hectares of illicit coca cultivated in the Upper Huallaga Valley (UHV) during 2009. In September, the base of eradication operations moved south to Tingo Maria following a strategy to attack the dense coca cultivations in Huanuco Department. According to Peruvian authorities, the GOP seized 498 metric tons of precursor chemicals and 19.7 metric tons of cocaine and destroyed 2,519 cocaine labs.

Despite these efforts, the GOP does not devote sufficient resources to implementing its counternarcotics plan or for counternarcotics operation. Coca cultivation expanded in Peru, Peruvian authorities seized fewer drugs in 2009 than in 2008, and Peru's potential to manufacture and export cocaine increased in 2009. A number of Peruvian politicians and the Foreign Minister publicly called for the international community to help Peru fight narcotics trafficking. Peru is a party to the 1988 UN Drug Convention.

**II. Status of Country**

Peru is a major cocaine producing country and is also a major importer of precursor chemicals used for cocaine production. In the UHV, coca growers at times engaged in violent acts to resist coca eradication in 2009, including attacking police and eradicators and threatening to kidnap or kill them. Despite violent incidents, the Government showed no signs of giving in to protestors' demands that eradication stop.

Remnants of the terrorist group Sendero Luminoso (Shining Path, or SL) are increasingly reliant on drug trafficking for funding and were active in 2009, as in previous years, in ambushing and killing police and military personnel in the UHV and in the Apurimac and Ene River Valley (VRAE). For instance, in September, SL shot down a Peruvian military helicopter, killing the pilot and copilot who had been sent on a rescue mission to evacuate wounded soldiers ambushed by SL while on patrol. Since 2006, 33 Peruvian National Police (PNP) officers and 2 CORAH (Control and Reduction of Coca in the Upper Huallaga) employees have been killed in SL attacks.

In May, the President of the Council of Ministers (PCM) presented the "Strategy for a Comprehensive Intervention- Plan VRAE" to the Congress, which was aimed at strengthening the State's presence in the VRAE and supporting development projects.

Peru had three ministers of interior in 2009 and the installation of each new minister resulted in other staffing changes at the ministry. These changes somewhat hampered the GOP's ability to efficiently prosecute a counternarcotics strategy in 2009.

**III. Country Actions Against Drugs in 2009**

**Policy Initiatives.** The GOP's National Commission for Development and Life without Drugs (DEVIDA) continues to implement the 2007-2011 counternarcotics master plan but needs more resources in order to achieve the strategy's goals of prevention and rehabilitation, interdiction, and alternative development.

The Office of the Attorney General (Public Ministry) continued its efforts to strengthen its prosecutorial capacity by increasing staff and providing training to enhance counternarcotics investigative and procedural skills. The Public Ministry issued a regulation extending the competency of special counternarcotics prosecutors' offices to the whole judicial district (a judicial district is generally a political region or department). Special counternarcotics prosecutors will also conduct investigations related to money laundering and chemical precursors when connected with drug trafficking. A temporary special counternarcotics prosecutor's office was established in Mazamari with funding through 2009.

The 2007 Criminal Procedures Code is being implemented progressively to replace the mixed inquisitorial criminal procedure model. By the end of 2009, the new criminal code had been implemented in 11 judicial districts; the remaining 17 districts are scheduled to implement the new code in 2010.

The GOP enacted legislation increasing the reward to a million soles (approximately \$344,827) and five hundred thousand soles (approximately \$172,413) for information that leads to the capture of terrorist leaders and terrorists, respectively. Additionally, the GOP enacted legislation to eliminate sentence reductions for imprisoned terrorists. These are advances in the counternarcotics struggle because, in Peru, terrorists such as SL often are involved in drug trafficking.

In 2009 to combat the diversion of kerosene for cocaine manufacture, the GOP issued regulations prohibiting the commercialization of kerosene and established a program to replace the use of domestic kerosene with liquid petroleum gas. A specific regulation for the VRAE prohibited selling, packing, repacking, transport, storage, distribution, transformation, use, services, possession or other type of activity with kerosene; however implementation had a negligible effect on the flow of kerosene through the VRAE.

**Accomplishments.** The increase of Peru's counternarcotics police (DIRANDRO) personnel in source zones over the last five years has contributed to more effective and sustained eradication and interdiction operations. In 2009 DIRANDRO destroyed 2,519 cocaine-production laboratories, including 25 cocaine hydrochloride (HCl) and 2,494 base laboratories in the UHV and the VRAE; and destroyed 1,016 metric tons of dry and macerated coca leaf. The GOP disrupted the production and transshipment of cocaine through operations on land, sea, and air, seizing more than 10.4 metric tons of HCl and 9.3 metric tons of cocaine base, and 1.8 metric tons of marijuana in 2009. (Note: Seizure rates are inflated, as authorities occasionally cite gross weight of a seizure rather than the net weight of the cocaine—such as when the September 4.3 metric tons seizure of cocaine found in 80,000 cans of artichokes included the entire content of the cans, rather than just the cocaine which constituted perhaps half the gross weight.)

Despite these successes, traffickers continued to adapt to counternarcotics strategies and tactics, experimenting with new delivery and production methods. For example, after containers had been inspected, drug traffickers sometimes stashed duffel bags with 50 to 100 kilograms of drugs into them. Drug traffickers mixed cocaine into liquids, clothing, plastic items, coffee, guano, and spices, making it harder to detect. The amount of cocaine seized by Peruvian authorities in 2009 was less than the amount seized in 2008. Similarly, although eradication reduced the number of hectares of illicit coca cultivation by 10,025 in 2009, the number of hectares of coca under cultivation nationally increased by 14 percent in 2008 compared to 2007. In the area of the UHV where eradication was undertaken, however, cultivation decreased by almost 50 percent from 2007 to 2008.

In accordance with the GOP's drug strategy, DIRANDRO and the DEA continued Operation Chemical Choke, a program that since 2006 has interdicted precursor chemicals destined to cocaine production laboratories in the VRAE and UHV. In 2009, Operation Chemical Choke resulted in the seizure of over 17.2 metric tons of acetone, 8.2 metric tons of hydrochloric acid, and 22.3 metric tons of sulfuric acid and the arrest of several chemical traffickers.

**Law Enforcement Efforts.** GOP law enforcement efforts focus on domestic crime within its major cities and provinces as well as issues regarding cocalero and Sendero Luminoso activities, placing less of an emphasis on dismantling and disrupting major drug trafficking organizations. The Garcia administration gives high priority to achieving economic growth; relying heavily on USG counternarcotics assistance to maintain police academies and police bases, fund eradication efforts, provide aerial support, and fund operations and equipment for counternarcotics police. During the year the GOP did not devote significant funding resources to fight drug trafficking or investigate major trafficking organizations.

In 2009, the GOP continued efforts to expand the police presence east of the Andes. U.S.-supported police academies in Santa Lucia, Mazamari, and Ayacucho graduated 912 officers, including 76 women, with a minimum 3-year commitment to serve in counternarcotics units. In addition, 600 candidates graduated from PNP pre-academies that prepare students to become police recruits; of these, 154 were women and 22 were indigenous minorities. In 2009 1,916 DIRANDRO officers were operating in coca source zones east of the Andes, which is slightly below the number of counternarcotics police at the end of 2008. Three hundred and fifty one graduates will join them in January, 2010, resulting in a force of 2,267 counternarcotics police east of the Andes.

DIRANDRO conducted counternarcotics operations named "AMISTAD I" and "AMISTAD II" with police forces in Brazil, Colombia and Ecuador in past years. In 2009 DIRANDRO conducted drug investigations with Brazil resulting in the capture of a Brazilian drug kingpin. A DIRANDRO officer was later targeted by the organization and murdered as a result of the successful operation.

Peruvian authorities throughout the year arrested important SL terrorists, among them Felix Victoriano Ascencio Majia (aka "Mono") and Ignacio Lino Solano (aka "Gringo"), who were in charge of logistics for SL in the UHV.

**Maritime/Airport Interdiction Programs.** USG analysts conclude that most cocaine that leaves Peru does so by maritime means. The GOP needs to devote more resources to Peru's Coast Guard (DICAPI) and Navy to give them the capability to mount a credible interdiction force to combat maritime cocaine shipments. In 2010, with USG assistance, the GOP plans to construct a maritime intelligence center designed to improve intelligence, analysis, coordination, and ultimately, interdiction of suspect vessels in Peruvian waters.

During the year, Peruvian agencies involved in maritime and airport counternarcotics enforcement were responsible for seizures of 11.6 metric tons of cocaine. Of an estimated one million containers that pass through Peruvian ports each year, Customs (SUNAT) personnel intensively inspected an average of 427 per month in 2009, compared to 9,500 inspected per month in 2008. Interdiction efforts at Lima's international airport resulted in the seizure of 3.3 metric tons of cocaine HCl, and the detention of 232 internal carriers (mules), while nearly 9,000 passengers were submitted to body scan x-rays to detect illicit narcotics and money.

SUNAT continued to expand its counternarcotics capabilities in 2009, especially at the leading seaport of Callao and at Lima's international airport. SUNAT more than tripled the counternarcotics canine force from eight to 25 and acquired a money detection canine. These canines assisted in detecting 9 metric tons of cocaine seized. In addition, SUNAT added 10 new portable ion-scanners and a backscatter X-Ray van to its inventory of non-intrusive inspection equipment. In October, SUNAT deployed one body scanner at the border crossing facility in Tacna, and one at Cuzco international airport. These scanners immediately resulted in the detection and arrest of internal drug carriers.

SUNAT improved security at the port of Callao with the installation of a closed circuit camera system, and plans to do the same at Peru's second largest port, Paita, in 2010. SUNAT now uses container and cargo electronic manifests for the ports of Callao, Paita, Salaverry, and Chimbote, and at the international airport in Lima. This capability provides analysts information to better detect and seize drug shipments. By year's end, the District Attorney's office had purchased two ion-scans and three portable trace detectors and had rented a container scanner for counternarcotics operations in Peruvian ports. Peru's counternarcotics Dive Unit continued conducting underwater inspections of ship hulls, but to date has not found contraband.

**Corruption.** The GOP does not encourage or facilitate the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances, or the laundering of the proceeds from illegal drug transactions. However, drug trafficking generates vast proceeds in Peru, which are used to attempt to bribe officials to allow or to facilitate drug trafficking. For instance, on January 13, 2009, the police chief of San Miguel was arrested for drug trafficking after a shootout with police officers outside the city of Ayacucho. Police found 59 packages of cocaine in the police chief's vehicle. In another incident, police captain Carlos Izaguirre and police officer Ernesto Ramos were arrested in Huamanga January 24, 2009, for allegedly reselling cocaine that had been confiscated in their jurisdiction in Ayacucho. Subsequently, Luis Henríquez Palacios, inspector general of the PNP, removed 120 police officers from duty in the VRAE; Henríquez told La República newspaper that 60 of these officers were suspected of using police weapons during their days off to seize cocaine from drug traffickers and resell it to competing traffickers, while 27 others were accused of corruption. The 120 officers were reportedly transferred to other posts pending investigation. Also, in January, 2009 a mid-level Customs official was arrested, along with employees of Lima Airport Partners and LAN-Chile Airlines, for drug trafficking. The case is pending trial.

The Comptroller General submitted a bill in 2008 modifying the Asset Forfeiture Law to include corruption of public officials as a predicate offense. The bill is pending in the Constitutional Committee. On January 14, a law was enacted modifying the criminal code to establish bribery of foreign public officials as a criminal offense. This is part of the GOP's commitment to prevent and combat corruption, including bribery in international trade and investment as set forth in Chapter 19 of the Free Trade Agreement between the U.S. and Peru. The Public Ministry, the judicial system and the National Police, are implementing new procedures to investigate internal corruption cases. The Ministry of Interior has announced a special telephone line to report cases of corruption.

**Agreements and Treaties.** Peru is a party to the 1961 UN Single Convention as amended by the 1972 Protocol; the 1971 UN Convention on Psychotropic Substances; the 1988 UN Drug Convention; the Inter-American Convention on Mutual assistance in Criminal Matters; the Inter-American Convention Against Corruption; the UN Convention against Transnational Organized Crime and its three protocols; and the UN Convention against Corruption. The United States and Peru are parties to an extradition treaty that entered into force in 2003. Peruvian law requires

individuals to serve sentences and any probationary period in Peru before being eligible for extradition. Among the 13 pending U.S. extradition and provisional arrests, seven are related to narcotics trafficking. Four subjects of extradition requests remain at large. Two Peruvians were extradited to the U.S. on drug and money laundering charges in 2009. In November 2009 Peru signed separate bilateral agreements with the Government of Mexico and the Government of Brazil to increase intelligence sharing and cooperation on counternarcotics matters.

**Cultivation and Production.** The official U.S. Government estimate for 2008 indicated that 41,000 hectares of coca were under cultivation in Peru, a 14 percent increase from the 36,000 hectares in 2007. (The USG estimate is at variance with United Nations Office of Drug Control (UNODC) estimate of 56,000 hectares of coca under cultivation in 2008 in Peru.) The 41,000 hectares would potentially produce 215 metric tons of pure cocaine, and 235 metric tons of export quality cocaine. Successful interdiction and eradication actions eliminated approximately 30 percent (46 metric tons avoided by eradication and 19.7 metric tons of HCl and cocaine base seized) of Peru's potential production of cocaine in 2009.

During 2009, the GOP continued eradication operations in the UHV, eliminating remaining coca in San Martin Department and commencing eradication in Huanuco Department. Throughout the year, coca growers and their leadership pressured the GOP to halt or limit eradication, but their disarray made the protests more a distraction than an effective impediment to counternarcotics efforts. Even a week-long strike and a journey to the capital in October by coca growers failed to get the government to halt eradication. Prime Minister Javier Velasquez Quequen refused to meet with coca growers and consider their demands. Day-to-day coordination among drug police, aviation components, and eradicators permitted eradication to continue at an optimum pace and CORAH counter measures reduced the incidence of attacks against eradicators and neutralized improvised explosive devices.

**Drug Flow/Transit.** Cocaine HCl continues as the principal illicit drug product in Peru, where traffickers use large production laboratories and storage areas to prepare and store it. Cocaine is transported from coca production zones, primarily in the Upper Huallaga and Apurímac Valley regions, to Peru's coastal and border areas for further processing and distribution.

Cocaine is transported over land to neighboring countries, and to Europe, the Far East, Mexico, the Caribbean, and the United States via maritime conveyances and commercial air flights. Maritime smuggling is the primary method for transporting multi-ton loads of cocaine. Colombians and Mexicans operate drug transportation networks in Peru, shipping cocaine to Colombia, Mexico, and the Caribbean. U.S. law enforcement agencies and their host nation counterparts from Australia, Hong Kong, Japan, Malaysia and Thailand report that Peruvian cocaine trafficking and transportation organizations operate in the Far East.

In 2009, the PNP eradicated approximately 31.5 hectares of opium poppy and seized 77 kilograms of opium latex. The PNP reported instances of opium latex, intercepted at Lima's international airport, being couriered by "drug mules" and/or mailed to European destinations.

**Demand Reduction.** The GOP, through its drug policy entity DEVIDA, engages in various media campaigns to inform public opinion. NGOs do most of the work educating, researching, and providing information. Most local/public schools have drug awareness education in the large cities, but drug use prevention programs are lacking in the regional education system and at the university level. Drug abuse of marijuana, cocaine, amphetamines, and synthetic drugs (most notably Ecstasy) has been increasing in Peru in recent years. According to the Peruvian non-

governmental organization (NGO) CEDRO, there are 200,000 drug addicts in Peru, of which 109,269 are marijuana users and 61,344 cocaine users.

The USG funds local NGOs in the development of 22 community counternarcotics coalitions (CAC) targeting poor, at risk communities in Lima, Pucallpa, Huanaco, Tingo Maria, Ayacucho, and Tocache. The CAC model is a formal organization of all sectors of a community working towards long-term, sustainable solutions and activities to reduce drug use. The CACs have proven effective in addressing community-specific drug demand issues especially among youth.

Public opinion is shifting about coca cultivation and the complicity of coca growers in drug trafficking, particularly when studies show that 93 percent of the coca leaf grown in Peru is illegal and destined for narcotics production. In Peru's major cities the public is most concerned about the impact of drug trafficking on and the effect of drug abuse among youth. Furthermore, there is a growing awareness of the damage that illicit drug cultivation and production causes to the environment. According to DEVIDA, Peru has lost 2.5 million hectares of land to deforestation in the last three decades; experienced erosion of 30 cubic meters annually per hectare of coca cultivated, and suffered the dumping of 118 million liters of precursor chemicals in forests and streams over the past five years.

**Alternative Development (AD) Program.** At the close of the eighth year of the AD program, more than 700 communities have renounced coca cultivation and continue to participate in the alternative development program. This total is slightly lower than reported in 2008 due to subsequent merging of some communities, and in a few instances due to communities dropping out of the program for various reasons. In 2009 over 27,000 family farmers received technical assistance on 35,232 hectares of licit crops (cacao, coffee, African palm oil, etc.). With many of these long term crops now entering their most productive years, the AD program has expanded business development activities to link AD producers to local and world markets at optimum prices. In 2009, sales from AD-assisted farmers reached over \$16 million in San Martin, Huánuco, and Ucayali.

The success in the productive activities was possible because of Peru's emphasis on an integrated development approach. The program worked with 460 (of the 700) communities and tens of thousands of people in social capital strengthening. Perhaps the most visible and far-reaching social capital activity was the Selva Ganadora contest, in which 253 communities competed against one another in development based themes, such as economic growth, environmental projects, and education and health projects. The contest galvanized the communities to take responsibility for their own development and the outcome for many of the communities was a leap forward in their development goals.

In 2005, USAID reoriented the AD program to work directly in areas with established CORAH eradication programs. The initiative was confronted with threats from armed groups pressuring communities in the Tocache, San Martin area to refuse to sign up for the program. However, through persistence and strong USG-GOP collaboration, the communities of San Martin resisted this pressure. The latest coca monitoring report from the United Nations Office on Drugs and Crime (UNODC) presented further evidence that the San Martin region of Peru is a major success story—The report confirms that the region is essentially free of illicit coca after a multi-year program of programmed eradication combined with effective alternative development. This is now referred to as the “Miracle of San Martin,” heralding the success of linking alternative development and eradication efforts, serving as a model for future efforts.

#### **IV. U.S. Policy Initiatives and Programs**

**Policy Initiatives.** U.S. assistance to Peru focuses on strengthening governance and creating opportunities for legal activities in isolated areas where drug traffickers and terrorists operate, using aggressive eradication, interdiction, and control of precursor chemicals; coupled with alternative development to reduce dependence on illicit coca cultivation. The USG also provides support for GOP efforts to improve its counter-terrorism efforts and publicize the links between drug production and common crime; so that Peruvians understand that drug trafficking degrades the quality of their lives, damages the environment, and threatens economic development.

**Bilateral Cooperation.** In 2009, the USG continued to work with the GOP on counternarcotics operations in the major drug source zones of the UHV and the VRAE. The PNP received USG assistance to increase police presence and improve police operational capabilities in these areas by supporting and renewing existing police bases and enhancing police training. Other U.S. government-provided training included maritime law enforcement and container inspection. With U.S. support, DIRANDRO commanders and field personnel received specialized counternarcotics courses and refresher courses in advanced airport drug interdiction and chemical field testing. The USCG provided mobile training to Peruvian officials in the areas of port security and container inspection. Law enforcement officials from other Andean countries also participated in the training courses, which contributes to regional cooperation in drug investigations and interdiction.

Peru's law enforcement organizations conducted joint operations with neighboring countries and Europe, and participated in drug enforcement strategy conferences to address drug trafficking along its borders, such as the former Operation Seis Fronteras—now renamed Operation Sin Fronteras to show that chemical and drug trafficking have no borders. This multilateral initiative is conducted at various stages during the year to combat the diversion of controlled chemicals to illicit markets where these chemicals are utilized. Peru hosted the Operation Sin Fronteras Phase XI evaluation conference in September 2009.

The Cooperating Nation Information Exchange System (CNIES) Agreement signed in 2005 between the USG and the GOP enables the USG and other cooperating nations to share intelligence concerning trafficking of drugs by air. CNIES has been implemented at Peruvian Air Force (FAP) locations in Lima, Pucallpa, and Iquitos.

Since 2005, the FAP Joint Anti-Drug C-26 Air Squadron has conducted counternarcotics reconnaissance and airlift east of the Andes. The C-26 Forward Looking INFRA-RED (FLIR) was used in 2009 to map suspected clandestine runways in Peru and update the status of known airstrips. The FAP C-26s provided critical overhead real time coverage for eradication workers, eradication police, and army personnel in the field. The planned 2010 installation in the C-26 of an electric optical camera will provide high quality imagery of coca fields to aid in planning eradication operations. The Military Assistance and Advisory Group (MAAG) coordinated and conducted CNIES training for FAP personnel and shifted radar assets in response to intelligence indicating potential trafficking by air. FAP conducted joint training exercises with Brazil and Colombia.

**The Road Ahead.** The USG encourages the GOP to continue its efforts on core commitments to eradication, interdiction, and alternative development to reduce coca cultivation and cocaine production.

The GOP's five-year counternarcotics plan reflects an emphasis on control and interdiction of precursor chemicals, drug seizures, reduction in coca cultivation, enforcement of money-laundering laws, demand reduction, and improvement of local economic conditions by introducing development alternatives to reduce dependency on coca cultivation, but needs more GOP funding. It is important for the GOP to devote significant resources of its own to fight drug



trafficking and focus more efforts on dismantling and disrupting major trafficking organizations. Passing legislation regulating the disposition of seized assets of drug traffickers, and legislation regulating disposition of seized precursor chemicals is also key. Completion of long time ongoing negotiations on maritime operational procedures for boarding suspect vessels will greatly facilitate cooperation with the DICAPI to counter illicit maritime trafficking.

The GOP is encouraged to continue its efforts to expand counternarcotics police presence east of the Andes. To aid in this effort, the USG is partnering with the GOP to build a new police academy in 2010 in Huanuco, the current epicenter of eradication operations. This facility will provide additional police capacity to help reduce coca cultivation and increase interdiction in critical source zones. Successful conclusion of negotiations on maritime operational procedures for counternarcotics and migrant interdiction initiated in 2006 would be a positive step forward consistent with Peru's efforts on other counternarcotics fronts.

### **“Surge in cocaine trade reported on Brazil-Peru-Bolivia triborder”**

BBC Monitoring America

28 June 2009

The rising production of cocaine in Bolivia and Peru is causing the drug refining labs to move into areas near the border between those two neighbours and Brazil. The result has been more trafficking inside Brazil, which has again become an international route. In just one month, for example, 100 kg of cocaine headed for Europe were seized at the Sao Paulo airport. Another concern for authorities is the formation of a kind of danger belt mainly around Acre and Rondonia, where ordinary individuals without jobs or education are being recruited as drug soldiers.

The main focus of concern for Brazilian authorities is located 230 km from Assis Brasil, Acre. It is the Peruvian department (state) of Madre de Dios, located in a strategic region for drug trafficking for a number of reasons: it is next to a consuming country such as Brazil, there are usable roads, and it is in an area of dense forest, and it is close to Bolivia, where business is more profitable. According to the Federal Police [PF], migration is occurring for two reasons. "The Peruvian traffickers deliver the cocaine ready for use, and the price is lower. This means that drug

traffickers in Bolivia do not need to produce the drug, as had been the case," explains Police Superintendent Mauro Sposito of the PF's Coordinating Office for Special Border Operations.

Sposito confirms the rise in the number of plantations in Peru, a circumstance that has now been reflected in Brazil since 2007. In just five months, for example, the PF seized 890 kg of the drug in Rondonia - nearly the same amount as that seized in all of last year. A UN report with data from 2008 confirms Brazil's concern over its neighbouring country. The document reveals an increase of 4.5 per cent in Peruvian cocaine production last year - the equivalent of 302 metric tons. That has been occurring because of the 28 per cent reduction in trafficking in Colombia, which made room for a 6 per cent increase in Bolivian production. The official figures show that 110 metric tons of the drug were seized in Brazil in one decade, but the bigger problem is that no one knows how much actually reached the streets.

The migration of Peruvian trafficking to Bolivia may also have a negative effect in other areas such as the rise in consumption in Brazilian territory. "The reason for the rise in drug seizures is that the demand exists for bringing it into the country," says one source at the Federal Police, noting that it is impossible to estimate how much cocaine is reaching the streets. "If, as a police officer, I knew that and did nothing, I should be arrested for not combating the traffic," he says. But the report that the UN Office on Drugs and Crime (UNODC) will release in Brasilia today will show stable consumption throughout the world. In Brazil, however, there still exists the perception, precisely because of the rise in seizures, that that is not happening.

#### Couriers

The picture of the situation in our country today is similar to what it was several years ago, when most of those arrested were "mules" - individuals used to engage in small-scale trafficking - who are also known as couriers. "The people used by the traffickers are normally poor, unemployed, and desperate to get some money to survive," says Judge Leandro Leri Gross in Brasileia on Brazil's border with Bolivia. "But many of them do it one time, see that it worked, and do it again." In Cruzeiro do Sul in southern Acre, for example, a fisherman was arrested with 200 kg of cocaine in his small boat. That drug was also Peruvian in origin.

Even the Shoot-Down Law, which went into effect in 2004 to prevent suspicious flights over the Amazon Region, has not intimidated the traffickers, who have resumed their use of small planes to carry the cocaine in Brazilian territory. On the 3rd of this month, the Brazilian Air Force (FAB) fired warning shots at a single-engine plane carrying 170 kg of cocaine and flying over the interior of Rondonia. The pilot and his companion landed but managed to escape. Also near the border but inside Bolivia, an aircraft crashed with two occupants. It was also carrying the drug.

Another problem detected by Brazilian authorities has been confirmed by the United Nations: the drug traffic in Peru has formed ties with Shining Path, the guerrilla group that terrorized Peru in the 1970's and is now reemerging. "The worst thing about all this is that the group is using children to guard the coca plantations," says Mauro Sposito. Since the organization is currently centred near Ayacucho in central Peru, the concern in Brazil is that Shining Path will expand into other regions and get close to the border with Brazil. In addition, there is fear that by joining with the drug traffickers, the group will grow stronger economically, as happened with FARC in Colombia.

#### UN Warning on Synthetic Drugs

A report that the UNODC will release in Brasilia today will reveal a concern affecting Brazil: the rise in the use of synthetic drugs, chiefly ecstasy, in South America. Despite that, the document will show that consumption of other drugs is stable or declining in some countries. The trend among cocaine and marijuana users is to migrate to synthetic drugs even though prices are higher.

The rise in synthetic drug consumption in Brazil has been reported since 2007, when the Federal and Civil Police made several seizures. But it was in Rio de Janeiro that gangs specializing in ecstasy trafficking and serving mostly upper middle class youth were discovered. The synthetic drug was coming from Holland and being traded for cocaine. In 2008 the PF seized 132,621 pills, while the total this year, according to official surveys conducted in May, is already up to 52,407.

Last year, according to the Federal Police, Sao Paulo held the record for seizures, having confiscated 105,254 pills, followed by Minas Gerais with 25,000. As of May 2009, Minas Gerais ranked first with 30,410 pills, compared to 21,145 in Rio Grande do Norte.

### Analysis

#### What is not shown on paper

The official reports show that the pace of work by the Federal Police is good, that the results regarding drug seizures are favourable, and that everything is proceeding smoothly. But that is not exactly true. The PF is simply doing its duty: it has equipment, money, and international help. And when it lacks personnel to operate on the border, it has the help of the Armed Forces in some cases. But that is not the case with other government organizations, including those in the states in the Amazon Region. And the resulting tragedy is that each one is fighting for a different side without combining forces.

And the problem is tending to get worse, even though the PF continues to work with the same or more intensity. The Trans-Oceanic Highway that will link Brazil with the Pacific Ocean by way of Peru is open. In other words, the door is also open to crime, which is already beginning to get organized along the highway in Madre de Dios.

#### Change in Number of Seizures

The number of cocaine seizures by the Federal Police has changed over the past 10 years. According to the latest statistics, it is estimated that 20 metric tons will be seized in 2010. The official data show that over the past 10 years, more than 110,000 kg of the drug have been seized before reaching the country's streets. The number of seizures by the PF since 2000 is shown in the graph (in metric tons, as of May 2009).

The table lists seizures by state through May 2009 (in kilograms)

Distrito Federal = Federal District

Credit: Federal Police Department

**Mexican, Colombian drug-traffickers unleash drug war in Peru - daily**

Anonymous. [BBC Monitoring Americas](#). London: [Feb 19, 2009](#).

**Abstract (Summary)**

["Sinaloa cartel operatives reportedly attack Colombia drug traffickers in Lima's Calloa port" - La Republica]

It was reported in La Republica that yesterday three presumed hit men from the Sinaloa cartel fired on two Colombian drug traffickers in the Callao port, to the north of Lima. The two were trying to sell them 350 kg of a substance purported to be cocaine.

Police sources consulted by La Republica think that the same group of Mexicans murdered another Colombian last Sunday in the Chorrillos neighbourhood of south Lima. He was apparently connected to the bogus drug shipment. In this situation, the Peruvian Police have not ruled out a war between the mafias of the two countries over the control of drugs in Lima, stated the newspaper.

La Republica website, Lima, in Spanish 18 Feb 09/BBC Monitoring/(c)

Text of report by Peruvian newspaper La Republica website on 18 February

["Sinaloa cartel operatives reportedly attack Colombia drug traffickers in Lima's Calloa port" - La Republica]

Mexican and Colombian drug trafficking mafias have declared war over the control of drugs in the Peruvian capital of Lima; the war has already claimed one victim in the last few hours.

It was reported in La Republica that yesterday three presumed hit men from the Sinaloa cartel fired on two Colombian drug traffickers in the Callao port, to the north of Lima. The two were trying to sell them 350 kg of a substance purported to be cocaine.

The three Mexicans discovered that the illicit cargo was cut with flour, which was confirmed afterwards by the Police when they seized the property rented by the Colombians in Callao.

Both the Mexicans and the Colombians implicated in this clash fled, some of them with gunshot wounds, and up to now their whereabouts are not known.

Police sources consulted by La Republica think that the same group of Mexicans murdered another Colombian last Sunday in the Chorrillos neighbourhood of south Lima. He was apparently connected to the bogus drug shipment. In this situation, the Peruvian Police have not ruled out a war between the mafias of the two countries over the control of drugs in Lima, stated the newspaper.

According to reports from the US DEA [Drug Enforcement Administration], the Sinaloa cartel controls more than 80 per cent of the drugs processed in the Apurimac-Ene river valleys (VRAE), one of the largest coca leaf and cocaine production zones in the country.

La Republica indicated that the Mexican mafias recruited Colombians to assemble and stockpile drugs until the end of 2007, but this connection ended in 2008.

Last year, 21 Mexicans and 17 Colombians were detained with 32 of the 40 tons of drugs that Police seized in the country, added the newspaper.

According to United Nations data, Peru ranks second to Colombia as the world's largest producer of cocaine and coca leaf, which is used to make this drug. The drug produced in Peru is exported mainly on maritime routes to Europe and the United States, presumably by Mexican mafias.

BOTH the Peruvian head of state, Alan Garcia, and the Andean country's "drug czar," Romulo Pizarro, have called attention to the presence of Mexican cartels on Peruvian soil on several occasions, concerned by their extreme violence.

International experts have stated that the Mexican drug traffickers are present in 38 countries, and their tentacles have been observed in Argentina, Guatemala, Spain, the United States, Italy, and Peru, where the Sinaloa cartel is the most powerful operator.

Credit: La Republica website, Lima, in Spanish 18 Feb 09

**“Arms race puts integration into perspective.” Latin American Newsletters. Latin American Weekly Report, page 4. 4 March 2010.**

An envoy of the Peruvian government travelled to Costa Rica last week bearing Peru’s proposal for reducing regional arms spending. He was preaching to the converted. Days earlier, at the Rio Group summit in Cancún, Costa Rica’s President Oscar Arias had sternly rebuked his Latin American peers for presenting a spurious “unity”. Arias implied that integration within the proposed Community of Latin American and Caribbean States, while increasing defence spending (and, in some cases, exchanging bellicose rhetoric) was a chimera.

Arias delivered a savage indictment of governments that increase arms spending while simultaneously complaining about the burden of national poverty. He used his allotted time at the UN General Assembly last September to air similar views [WR-09-39], and it is safe to say that most of his peers in the region will be glad to see the back of him when he leaves office in May. Peru, however, is keen to keep his cause alive. Peruvian deputy and former foreign minister, Luis Javier González Posada, travelled to San José last week to flesh out a proposal Peru made to the Union of South American Nations (Unasur) at the end of last year: a ‘Protocol of peace, security and cooperation’, including the creation of a regional ‘peace and integration force’, and a concrete five-year plan for a reduction in arms spending, devoting the savings to eradicating poverty [WR-09-45].

The Peruvian government has dispatched senior politicians across the region to lobby governments about its plan. It claims to have received positive feedback from Paraguay, Uruguay, Ecuador and Colombia (which has its internal war to worry about and is concerned about Venezuela stockpiling arms). Despite the fact Ecuador is exercising the pro tempore presidency of Unasur, it is doubtful whether the part of the initiative related to arms expenditure will prosper. It appeals neither to Brazil, which is developing its own arms industry, nor Venezuela, where President Hugo Chávez is set on amassing weapons to achieve deterrence.

González Posada described the US\$35bn of spending on arms and “war technology” by Latin American states over the last five years as “economic genocide” when there are 180m poor people in the region and 170,000 children suffering from hunger or lack of health care. Peru has ulterior motives: it wants to keep Chilean arms spending in check, while it devotes resources to domestic security problems posed by Sendero Luminoso and narco-traffickers. Chile has so far sounded a negative note about the plan, but it could support the creation of a regional peacekeeping force, which would have been ideally placed to perform a disaster-relief role in response to the recent earthquakes in Chile and Haiti.

**“Sendero Luminoso Makes Inroads Where Government is Weakest.” Latin American Newsletters. Latin American Regional Report, March 2010.**

Emails leaked to the Colombian press this month suggested greater engagement between Sendero Luminoso (SL) and the Fuerzas Armadas Revolucionarias de Colombia (Farc) than was previously thought. The increased visible presence of the SL in the coca growing regions of the Apurimac, Ene and Upper Huallaga valleys (VRAE) signals its return as a changed organisation. SL - if one is to believe the rhetoric - has transformed its politics, tactics and *modus operandi*. It now operates principally as a drug-trafficking organisation, but is trying to rebrand itself as a political project, a process which is allegedly being supported by the Farc. The SL has been able to exploit the traditional gap in Peru between the central government’s Lima-focused policies and the poor coordination between central, regional and sub-regional governments.

Since its inception in the early 1980s, SL has changed from a Maoist guerrilla group advocating violent revolution to a narco-trafficking organisation. Exchanges of cash for membership (US\$400/person), reported late last year in the Chungui region, emphasise its importance as a local economic player in Peru’s highlands. The SL leadership now appears to favour of a return to politics, however. The group’s second-in-command, Elena Iparreguirre, and Alfredo Crespe, the lawyer of SL’s founder, Abimel Guzmán, recently confirmed plans for the movement to participate in municipal and regional elections (in 2010) and national elections (2011) as the Movimiento Pro-Amnistia y por los Derechos Fundamentales en Peru.

This shift has resulted in a change in tactics under which violence is to be directed only at the armed forces, and not local communities or cocaleros (coca producers). Recent activity in Huánuco (5 February), followed by attacks on the anti-terrorist Bajo Somabeni military base (26 February) forms part of efforts to re-build networks to support the SL in the region and maintain secure access to coca, the group’s financial life-line. The movement’s evolution and its tactics over the last 10 years have led to a very different *modus operandi*. Now wholly financially dependent on narco-trafficking, the SL has extended its control over the cocaine production process, prompting some commentators to observe that SL operates, increasingly, like a business. Acting as a protector of the cocaleros in the face of government eradication programmes, the group is gaining acceptance, but not, as yet, widespread support.

The SL’s internal and ideological change is taking place in the context of poorly-executed government decentralisation policies. Poor relations between the central, regional and sub-regional governments – epitomised by the inability of the central government to spend and redistribute revenues at the regional and local levels – is being exploited by the SL in its insurgency against the state. One example of this failure is the “Canon Minero”, a mechanism designed to redistribute revenues generated by extractive industries from the central Lima government to regional and sub-regional authorities (see sidebar). The lack of reparation payments, promised for the victims of the political violence in the 1980s and 1990s, has also been used as a rallying call by the SL in the affected regions around Ayacucho.

The SL resurgence also exposes the limits of state power in Peru. The rapid militarization of the VRAE areas (permitted through the December 2008 supreme decree 012-2008-DE/CFFAA), illustrates how, in the absence of political control or integration, the government is forced to resort to military control. This means the government no longer requires a state of emergency to be declared prior to the deployment of the army. The lack of central government presence is nothing new, but rather the result of the historical prioritisation of the coastal areas over the Sierra. The state’s inefficiencies and bias towards the coastal regions play into SL’s hands in the

same way as that the violent reprisals of the Fujimori-era did. They provide the SL with a platform upon which to increase its own support, highlighting the lack of redistribution, increased inequalities and the continued marginalisation of these areas.



## **Inter-American Press Association Country Report 2010**

### **Peru**

The tense atmosphere in which the press carries on its work of delivering information has not diminished during this period.

Rather, the atmosphere has become rarified due to cases such as the forced closure of La Voz de Bagua radio, the arbitrary detention of the publisher of the weekly *Nor Oriente de Bagua Grande* or the danger that the murder of journalist Alberto Rivera will remain unpunished.

One of the most serious events, however, occurred in mid March when officials of the Executive Branch warned about the presumed and, today, rather clear intention of the government of President Alan García Pérez to interfere in the private affairs of a media group.

Unlike the reversed intervention in Panamericana Television through the National Department of Tax Management (SUNAT) in June, 2009, in the case of America Television, the warning came from the Executive Branch.

On March 10, at the end of a session of the Council of Ministers, flanked by Prime Minister Javier Velásquez Quesquén, Justice Minister Aurelio Pastor demanded, on behalf of the government, that Congress and the Federal Prosecutor's Office investigate the independent re-opening of America Television in 2001.

That declaration was rejected by institutions and public opinion.

The Chairman of the Board of America TV, Luís Miró Quesada, rejected the statements of Minister Pastor and criticized the attempts of the government to intervene.

Minister Pastor's statement seemed to indicate that the government gives tacit support of the legal maneuvers taken by the former owner of America TV, José Enrique Crousillat, who was sentenced to eight years in prison for taking 60 million soles from Vladimiro Montesinos, former aide to ex-president Alberto Fujimori, in payment for the purchase of the editorial position of the channel.

Coincidentally, José Enrique Crousillat had received the benefit of a presidential pardon in December, based on humanitarian reasons, which was seen as backtracking in the fight against corruption, which received new impetus after the Fujimori government.

On March 13, President Alan García revoked the pardon of José Enrique Crousillat, after revelations made in the press showing that his supposed health problems that had justified it were, in fact, fraudulent.

On March 17, Minister Pastor, involved in the scandal since he was the politician responsible for Crousillat's pardon, reacted to the events and accused the *El Comercio* group of undermining the democratic stability of the country, putting its business interests first, even at the cost of misinforming the public, and he urged citizens to stand up against their communications media. This happened because the media, along with politicians from his own party, had called for his resignation.

The Chairman of the Council of Ministers, Javier Velásquez Quesquén, indicated that the cabinet that he heads does not share the position of Minister Pastor and that the government was

respectful of freedom of expression. Highly-placed officials of the government also rejected the statements of the then Justice Minister.

On March 17, the Justice Minister was relieved of his duties and was replaced by Victor Garcia Toma.

On January 12, Alejandro Carrascal Carrasco, publisher of the weekly *Nor Oriente* of the city of Bagua Grande, province of Utcubamba in the department of Amazonas, was arrested. His detention came at the order of judge Francisco Miranda of the First Criminal Court, who had sentenced him to one year of deprivation of freedom, for the crime of aggravated slander against Victor Fera, former director of the Superior Technological Institute, who had brought a complaint against him in 2005.

There are indications that it was a question of political persecution in reprisal for the coverage the weekly paper made of the violent confrontation between politicians and natives known as the “Baguazo” that resulted in the death of 24 police and 10 civilians on June 5, 2009.

The Peruvian Press Council is interceding in this case against the President of the Judicial Branch, Dr. Javier Villa Stein, since the Mixed Court of Appeals of Utcubamba, even though time has expired, continues to delay in ruling on the appeal to the sentence and the request for nullification due to irregularities in the process.

In this context the closure of *La Voz de Bagua* radio occurred in June, 2009. The cancellation of the license of *Voz de Bagua* took place three days later, on June 5. The Prime Minister, the Minister of the Interior, and the President of the Congress continue accusing the radio station of having caused the murders of 20 police officers.

On February 16, the Head Prosecutor of the First Provincial Prosecutor’s Office of Utcubamba, Amazonas Region, Ms. Olga Bobadilla, dropped the criminal case against Aurora Burgos de Flores, owner of the radio station, and reporters José Flores Burgos, Leiter Flores Burgos and Alberto Pintado Villaverde for the supposed crime of disturbing the peace as a justification for the act of sedition. In spite of this measure, the Ministry of Transport and Communications (MTC) refuses to authorize the station to return to the air, and has even seized its bank accounts to cover supposed unpaid fines, which has kept its programs from being aired by other local stations.

The director of Radio Oriente and Channel 8 TV, Geovanni Acate, is facing criminal charges in the First Mixed Court of the Upper Amazon for instigating the population against public order. The Minister of Transport and Communications, through Vice Ministerial resolution No. 025-2010-MTC/03, cancelled the license of that television channel using the argument that the station failed to comply with the time period allowed to begin operations in 2005. However, the Vice Minister had issued a certificate of approval of its equipment, which confirmed that Television Oriente had met the technical requirements to function. The station had supported the complaints of indigenous communities.

This contrasts with the attitude of the MTC, which in January, as a result of steps taken by the Press Council, through Supreme Decree No. 003-2010-MTC, published in the official daily *El Peruano*, modified article 68 of the Regulations on the Radio and Television Law which governs applications for renewal of broadcast licenses. That order includes a Temporary Complementary Provision that states that procedures for license renewal may continue in order to avoid the closure of 400 broadcasters in the provinces.

On February 9, the IAPA and the Peruvian Press Council considered a decision made by the Third Criminal Court for the Incarcerated of the Superior Court of Lima as a very serious message. That minority decision absolved the former provincial mayor of Coronel Portillo, Luís Valdez Villacorta, and former judge of the Superior Court of Ucayali, Solio Ramirez Garay, who had been removed. The two had been accused of ordering the murder of journalist Alberto Rivera Fernández in the city of Pucallpa in 2004.

The trial had begun again at the end of January in the high-security prison of Castro, where Valdez Villacorta is in custody and is facing trial on charges of asset laundering and drug trafficking. The trial was being held amidst accusations of procedural irregularities and with unusual interventions, such as by the president of the court, Jorge Aguinaga, who, while not admitting evidences of the existence of a motive, upheld the decision, alleging that there was not sufficient evidence of the crime. The Judges Oversight Office has begun an investigation on the conduct of the court. A decision is still pending from the Supreme Court on the request from the Senior Prosecutor, Mateo Castañeda, who had asked for 20 years in prison for the crime of murder for those who had been absolved, and has filed an appeal for nullification of the decision [to absolve].

We are concerned about the modification of Article 139 of the Criminal Procedure Code that prohibits publication of information on the progress of a case during the preparatory investigation stage or the intermediate stage, and sanctions those who violate this law with fines, including the media.

Also in the judicial area, member of Congress for the governing party Elsa Malpartida filed a formal complaint against El Comercio editor Francisco Miró Quesada Rada and reporter Omar Castilla with the Lima Provincial Criminal Court, alleging they unlawfully disclosed the identity of a person in a report published in November 2009 which said that between 1984 and 1994 Malpartida was in charge of logistics for the Sendero Luminoso in the Alto Huallaga region, which at the time was the main center of operations of that drug trafficking and terrorist organization. Malpartida stopped belonging to it in 1994 when she took advantage of the Law on Repentance. The newspaper's article was based on documents that in fact Malpartida had submitted to be able to enjoy that benefit. Three days after the publication of the report, on November 4, at a press conference in the company of Ollanta Humala, the leader of her political party, Malpartida far from shedding light on the matter said, without presenting any evidence, that the newspaper had charged for publishing the information. The scheduled legal inquiries have been delayed until further notice.

We have also noted a growing intolerance by authorities facing legitimate questioning by the press. A clear example of this is the aggressive attitude adopted by some government officials, including cabinet members such as Defense Minister Rafael Rey and the Peruvian president himself, towards the newspaper La Primera, which also often complains that its reporters are excluded from accompanying cabinet members on trips they make, while numerous other news media are included, as happened in February when Prime Minister Velásquez Quesquen visited flood victims in the Huancavelica region.

On a final note, press organizations roundly condemned an incident involving Judge Raúl Rosales More, who after calling the attention of news photographer Carlos Saavedra of the magazine Caretas as he was filming threatened him with a firearm. The judge, who had been questioned about an attempt to reinstate a controversial Constitutional Court justice, later appeared on the magazine's cover pointing his gun at the photographer.

Other major developments during this period:

On March 1 journalist Mario Espinoza Ruiz, host of the news program broadcast by Radio Panorama radio station in the Apurimac region, reported that the wife and daughter of a captain accused of corruption broke into his booth as his program was being aired, threatening him and beating him in anger at his coverage of the case.

On February 23, journalist Carlos Vásquez Rodas of the program “Fama Noticia” broadcast by Radio Fama in Guadalupe district, Libertad region, reported that the mayor of Pueblo Nuevo threatened him as his bodyguard beat him, in reprisal for what he had been revealing.

On February 27, José Puga, a reporter with the newspaper El Comercio, and freelance photographer Jean Marco Córdova reported that they were beaten up by police officers as they were covering an operation to disperse a group of residents of Barranco district in Lima province.

On February 22, Otilio Ríos Valdivieso, host of the program “Horizonte en la Noticia” and Ancash region correspondent of the newspaper Ya and television channel ATV Canal 9, reported that he was attacked by the police chief of Serenazgo in the municipality of Pomabamba and his staff for having reported about the reinstatement of a mayor who had been dismissed for corruption.

On February 6, Amancio del Aguila, correspondent of Panamericana Televisión and host of the program “Voz y Ritmo en la Noticias” broadcast by Radio 90.1 FM in the city of Tingo María, Huánuco region, reported that a former mayor of Padre Felipe Luyando-Naranjillo district threatened to kill him in front of his two daughters.

On February 5, Juan Carlos Lobato, owner of Radio Campesina in the Cajamarca region, reported that the president of the Cajamarca Neighborhoods Association burst into the radio station and on not finding him threatened to kill a group of reporters there for having criticized his conduct.

On February 4, Karla Gómez Otoyá, a reporter with the “La Libertad” edition of the newspaper Correo, reported that the owner of a boarding house insulted and hit her when she refused to reveal the source of information used in an article in which she reported that criminals were staying at his boarding house in the city of Trujillo.

On January 22, Segundo Matta Colunche, a reporter with radio station Ilucán and television station Canal 4 in Cutervo and correspondent of radio stations Marañón in Jaén and Líder in Cajamarca and of the newspaper El Clarín, reported that a member of the staff of the Sub-Regional Department of the Cajamarca region threatened to kill him and warned that he would die before May for having exposed local government corruption.

On January 14, Henry Lovera, host of the news program “Punto de Vista” broadcast by radio station La Achirana in Ica region, reported that the mayor of the Pachacama district broke into his booth, hit him and broke a microphone as he was airing a denunciation of misuse of public funds by the mayor.

On January 2, members of the 1st Criminal Division of the Supreme Court upheld, by majority vote, the conviction on April 7, 2009 of former president Alberto Fujimori and sentence of 25 years in prison as the one who had ordered crimes committed in Barrios Altos and La Cantuta and the kidnapping of journalist Gustavo Gorriti on April 5, 1992.

On December 31, Rodolfo Lobo Tello, host of the program “Contamaná al Día” which is broadcast by Radio Feroz in Loreto region, reported that he was beaten and threatened in his booth by the director of the Local Education Unit (UGEL), who demanded to be interviewed to respond to allegations of wrongdoing during his term of office..

On December 13, cameraman Leocadio Madera of the program “Prensa al Día” broadcast by Canal 47 UHF in Cuzco region, reported that he was arrested and taken to a cell in the courthouse on an arrest warrant in connection with a lawsuit claiming physical aggression brought by a former official of the Cuzco Municipality, whom Madera had tape recorded while the man was drunk. Madera said he had never received the summons to appear in court and he was released the following day.

On November 20, Miguel Bellido Almeida, correspondent of the newspaper El Comercio, Winston Callalli Campana of TV Canal 15, Jesús Camacho Quispe of Canal 11 TV Amistad, Carlos Peña Costillo of Andina Radiodifusión, Paúl Pilco Dorregaray, correspondent of the newspaper Correo, and Marcelo Santa of Canal 29 television reported having been beaten and threatened by police officers as they were covering a protest against the president of the Apurímac region. Pilco said he was intercepted by three armed and masked policemen who confiscated his photographic equipment, returning it some hours later with the memory card erased.

## **“Rights – Peru: Activists urge Obama to use trade pact as leverage”**

Haider Rizvi

IPS – Inter Press Service

16 June 2009

'Whether or not the U.S. intended it, the reality is that the U.S.-Peru Trade Agreement gave license to the [Alan] Garcia administration to roll back indigenous rights and has contributed to increasing social conflict and human rights abuses in Peru,' said Andrew Miller of Amazon Watch.

On Monday, Miller's group joined a broad coalition of 14 other organisations in sending a letter to Secretary of State Hillary Clinton and other high-level officials calling for immediate U.S. action regarding the ongoing political conflict in Peru between the state authorities and indigenous rights movement.

Recently, Peruvian President Alan Garcia issued two decrees to implement the U.S.-Peru Trade Promotion Agreement. Many critics describe the decrees as controversial because they are designed to regulate investment in the Amazon, which is a source of concern for environmental organisations as well as the indigenous population.

On Jun. 5, indigenous activists took to the streets in northern Bagua against the government's policy to let foreign investors use indigenous lands in the Amazon. The security forces reportedly opened fire on the crowds, as a result of which more than 50 people were killed.

Analysts of U.S. policy towards Latin America describe the bloody incident in Bagua as the latest rendition of the discord that exists between the United States, Latin American governments and the indigenous people of the region.

'The increase in foreign direct investment since the 1980s has ignited countless humanitarian and environmental crises throughout Latin America as the leaders of developing world are being forced to choose between the perceived economic benefits of free trade,' note researchers Arienna Grody and Lincoln Wheeler.

In a report for the Council on Hemispheric Affairs, a Washington-based think tank, they describe Garcia as 'a robust ally of foreign investors and multinational corporations' who has strongly defended Peru's development initiatives by claiming that it was in the benefit of the poor.

But, to Grody and Wheeler, such an assertion is highly questionable.

'This grand scheme to uplift the poor, cynical it may seem, has significantly increased the disenfranchisement of the already underrepresented native people who have now seen themselves [of having been] stripped of basic ownership rights of their traditional lands,' they wrote.

The ownership rights to traditional lands are fully recognised by the majority of the international community. The U.N. General Assembly endorsed that principle in a resolution approving the adoption of the Declaration on the Rights of Indigenous Peoples. The resolution was passed in September 2007.

Since the adoption of the declaration, which is not legally binding, indigenous peoples all over the world have been joining hands with environmental organisations and calling upon governments to respect their way of life and protect their resources from commercial concerns.

Since Peru is rich in copper, silver, lead, zinc, oil and gold, many foreign corporations are keen to explore such commodities for profit. The indigenous communities have been resisting such attempts for decades and have often had violent clashes with the authorities of Spanish descent that support the use of indigenous lands for private use.

Numerous studies show that between the 1980 and 2000 some 70,000 people were killed in clashes between the security forces and armed political groups fighting for economic and social justice and rights of the indigenous people.

Although the Peruvian Congress has temporarily suspended Garcia's decrees on land use, leaders of the indigenous movement say that is not enough and that their resistance would not come to an end unless the government agrees that their lands would not be used by foreign companies.

The U.N. declaration demands that government and corporations must seek the 'informed consent' of indigenous communities before embarking on any kind of commercial venture on indigenous territories.

Many non-native civil society groups, particularly environmental activists, support the indigenous peoples' assertion and hold that the new legislative decrees could have detrimental consequences for the Amazon rainforest and indigenous land rights.

Critics note that the legislative decrees were passed without transparency or genuine consultation with indigenous communities. According to Oxfam International, a British anti-poverty organisation, the decrees are not only in contradiction to the U.S.-Peru pact, but also violate ILO Convention 169, which Peru ratified in 1993.

The ILO Convention grants indigenous communities the right to be consulted on issues affecting them.

'The Peruvian Congress has taken an important first step by suspending these decrees, but much more needs to be done to bring an end to this conflict,' said Raymond C Offenheiser of Oxfam America.

He thinks that the U.S. government 'can help by fostering a solution through dialogue, not force.'

Concerned about the fact that the Peruvian government intends to clear protesters in other areas of the Amazon, he said the U.S. government must act quickly to work with Peru to address the issue of legislative decrees, and to clarify what relation, if any, these decrees have to compliance with the trade pact.

'We strongly urge the U.S. government to help bring an end to this crisis by supporting a dialogue that includes views of indigenous communities and protects the human rights of these citizens as guaranteed by national and international law,' said Offenheiser.

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The United States-Peru Trade Promotion Agreement:  
What Did You Expect?

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# The United States-Peru Trade Promotion Agreement: What Did You Expect?

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October 13, 2009  
Comments welcome  
JEL Classification: F15, O24

**Abstract:** Bilateral free trade agreements have generally been analyzed as instances of preferential reciprocal tariff liberalization. Viewed through this lens, such agreements raise concerns both about new competition and about trade diversion. The United States-Peru Trade Promotion Agreement, an example of a serious North-South accord, demonstrates that new market access was not a principal Peruvian goal in the trade negotiations. Instead, the agreement was intended to encourage investment by locking in Peru's economic reforms. This motivation has very different implications for the global trading system than a quest for preferential access.

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## 1) *Introduction*

Bilateral free trade agreements have been the major means of opening markets over the last decade, but they have been attacked on two fronts. Critics of trade liberalization dislike them for obvious reasons. However, some advocates of trade liberalization also dislike them because they are seen as distracting from the goal of worldwide free trade. This latter group tends to misinterpret what free trade agreements do and the broader benefits they can bring.

This study aims to explore those broader benefits through an in-depth look at the case of Peru. In particular, it seeks to shed light on some of the debates about free trade agreements by asking what the Peruvians sought to achieve through the FTA. Were they seeking new access to the United States market? Or were they using the agreement as a vehicle to strengthen economic and governance reforms?

Although these explanations have been offered for FTA participants around the world, there are some reasons why Peru offers a particularly interesting application. Not only did Peru suffer through past periods of economic mismanagement and poor governance, but the current President, Alan Garcia, previously presided over one of the worst episodes. The FTA with the United States offered one of the only ways that the Peruvian government could commit itself credibly to pursuing a broad range of better policies. Further, if we are interested in what countries hoped to achieve in pursuing an FTA, Peru offers the freshest set of expectations available, still untainted by much subsequent experience with the operation of the agreement.

A major focus of this study is the extent and means by which FTAs function as a means of committing to better governance. Some of this is embodied in the agreement itself, with chapters covering investment and dispute resolution. Some of it comes from the signal it sends about the government's beliefs and priorities.

One of the failings of the academic literature has been a tendency to approach FTAs as a mere reciprocal lowering of tariffs. There is a practical reason for this approach: it is very difficult to model systematically the other things that an FTA does. While there are alternative approaches in the literature reviewed below, they tend to be broad and empirical, without firm theoretical foundations. A case study offers an opportunity

to address familiar liberalization questions, but also to delve into some of the subtler questions that have yet to be well-addressed in the literature.

The study suggests that Peruvians were far more interested in locking in economic reforms and attracting investment than in gaining new market access or moving the terms-of-trade in their favor. They saw the FTA as an integral part of broader economic reform and as a springboard to liberalization with the rest of the world.

In some ways, the Peruvian case is ideal for disentangling the different effects of FTAs which are expounded in the academic literature. Most notably, Peru already had virtually tariff-free access to the U.S. market through the U.S. preference measures.

It is not a perfect natural experiment, however. Peru benefited greatly from a worldwide commodities boom that was contemporaneous with pursuing and signing the FTA with the United States. That is an important part of the backdrop to the story about learning and the dynamics of trade liberalization that is taken up later in the paper.

Peru sheds light on the central schisms in the trading world today. The World Trade Organization reached an impasse in 2008, in part over the proper rights and obligations of advanced developing countries. Those obligations have historically been low in the WTO and high in FTAs. The different branches of the U.S. government reached an impasse over the desirability and impact of FTAs – Peru was the last to pass before this rift brought action to a halt.

The next section reviews some of the major hypotheses in the literature about why countries pursue FTAs and what those agreements do. Section 3 offers some background on Peru's economic history and the role that trade has played. It also describes the key features of the U.S.-Peru Trade Promotion Agreement (PTPA). Section 4 reports the findings of a series of interviews with Peruvian former officials, academics, and businessmen. It uses those interviews to consider the hypotheses of Section 2 as well as to explore some novel arguments about the political economy of trade agreements. Section 5 concludes.

## 2) *Hypotheses to explore*

A) The question of motives

There is a substantial literature theorizing about free trade agreements and a smaller one offering empirical tests of those theories. For the most part, the question of participating countries' motives is not very salient in the literature. The motives are usually just implicit in the theoretical framework that is used to analyze the problem.

In a classic trade model, for example, we might have two countries with some endowments of goods or factors of production. The countries have some preferences over the goods they ultimately consume – a social welfare function – and they manipulate a tariff on imported goods so as to maximize their well-being. Many models offer slight variations on this theme. We might introduce a third country, which allows two countries to discriminate against the third with their tariffs. In a political economy version, we might have interest groups or heterogeneous individuals within our countries, which can reshape the social welfare function to give additional weight to the interests of those who are somehow favored.

Ultimately, though, free trade agreements are analyzed as exercises in which tariffs are removed between the signatory countries and we assess how those countries' welfare changes. FTAs have been a subject of economic analysis since at least the early days of the current global trading system, just after World War II. At that time, the General Agreement on Tariffs and Trade (GATT) allowed an exception to its core principle of non-discrimination among trading partners. Article XXIV permitted FTAs so long as they covered substantially all trade between the participating countries and were completed in a timely fashion.

One motivation for this exception was to meet the potential need for politically-motivated economic integration, as when the recently fractious nations of Western Europe decided to cooperate economically. It was not uncommon for FTAs to be driven by non-economic motives, like ensuring a lasting peace in Europe or cementing a political alliance (the first U.S. FTA was with Israel). These motives were sufficiently non-economic, however, that they lay outside the plausible realm of economic modeling; the politically-motivated agreements could be treated as exogenous for analytic purposes.

It poses a substantially greater challenge for our understanding of FTAs if agreements are pursued for economic motives that are poorly represented by the standard

model of reciprocal tariff liberalization. It would suggest that the models are missing potentially important aspects of the relevant behavior. Extrapolations that rely upon misread motives could offer misleading predictions about where the world trading system is headed. Political debates that rely on the economic analyses may misjudge agreements under consideration. Efforts to assess the impact of FTAs may focus on the wrong aspects of subsequent experience.

These are not purely hypothetical possibilities. In fact, there has been a remarkable proliferation of FTAs in recent decades. These FTAs have ranged from high-standards agreements which imposed detailed restrictions reaching far beyond tariff elimination to agreements that serve as little more than statements of political amity with an inclination toward future liberalization. This heterogeneity imposes a challenge for theoretical and empirical researchers. For theoretical researchers, the tool set for dealing with reciprocal tariff reduction is much better developed than the modeling options for dealing with other facets of the agreement. For empirical researchers, they must choose between pretending that trade agreements are homogeneous or acknowledging the heterogeneity. The former is useful for generating large sample sizes, but is implausible with even a cursory examination of the terms of the agreements.

Acknowledging heterogeneity can leave empirical researchers with very few observations of any particular type of agreement.

This paper draws on the Peruvian experience in an attempt to shed light on the motives behind FTAs. This section offers a very brief description of some of the most prominent motives that are either explicit or implicit in the literature.

#### B) Reciprocal tariffs and terms of trade

The classic trade model approach sketched above has been developed and explored thoroughly in the work of Bagwell and Staiger (2002). They describe a general framework in which two or more countries contemplate trade agreements among themselves, armed with tariffs that they can raise or lower. Among the principal effects of trade agreements they list trade diversion, in which a high-cost producer exports more because of tariff preferences, and market power, in which a group of countries will use its collective power to raise tariffs and move the terms of trade in its favor (p.

117).

Bagwell and Staiger argue that this approach, in which reciprocal lowering of trade barriers is the essential feature of trade agreements, is not reliant upon a narrow apolitical view of trade liberalization. They write:

The incentive for governments to enter into trade agreements that result in mutually lower tariffs is quite general, and in particular is in no way limited to the hypothesis that governments maximize national welfare. (p. 24).

They argue that their approach encompasses models with domestic political competition as well and conclude that the “terms-of-trade externality is the only inefficiency that a trade agreement can remedy.”

This is the predominant view in the academic economic literature, but it encounters some difficulties in empirical studies. Freund (2004) considers 91 trade agreements and divides them into three commonly-used categories. This taxonomy of trade agreements is sufficiently pervasive and relevant that it is worth a brief review.

*North-North agreements.* These are agreements between developed nations, often members of the OECD. There are relatively few, but they are prominent (e.g., the European Union, NAFTA). The geographical description can be inapt as well, since Australia-New Zealand would be a prominent example.

*North-South agreements.* These are agreements between developed and developing nations. These have proliferated more recently, as the United States and the EU have paired up with partners in the developing world. The agreement between the United States and Peru falls into this category.

*South-South agreements.* Of the preferential trade agreements notified to the WTO, a substantial number are between developing nations. These agreements have generally been less ambitious in the extent of liberalization and the range of issues covered than those involving developed nations. The present paper will touch briefly on this category, since Peru also participated in Andean regional efforts at trade liberalization.

Freund finds strong evidence of reciprocity in North-North and South-South agreements, but little evidence of reciprocity in North-South FTAs. At a minimum, this suggests the need for a more nuanced theoretical view of FTAs.

C) A commitment device

Ethier (1998) provides just such a view. Without offering a detailed theoretical framework nor detailed empirical results, Ethier describes a “new regionalism” that distinguishes the North-South FTAs from their more reciprocal North-North counterparts. He argues that North-South agreements tend to follow unilateral reforms and feature “deep integration” (measures that go well beyond border barriers to include items such as investment regulation). He describes the commitment to reform as a central purpose of this type of agreement and hypothesizes:

The more likely that backsliding from an external commitment will induce retaliation, the more likely such a commitment is to sustain reform. The more that specific reform measures are embodied in an external commitment, the likelier that commitment is to sustain reform. (p. 1154)

In contrast to FTAs, he writes:

Multilateral negotiations are...of little practical use for this purpose. They provide no enforcement mechanism should a country backslide, and large industrial countries can hardly be expected to put the multilateral system at risk merely to punish a single deviant reformer. (p. 1156)

In Ethier’s view, the principal attraction of FTAs to reforming countries is the ability to attract foreign direct investment. This has negotiating implications that are radically different from the reciprocal liberalization view.

What matters here is what the small reforming country gives, in terms of trade concessions, not what it gets, because it is the former which influences the likelihood of retaliation by the partner in the event of backsliding. (p. 1157)

More recent work by Büthe and Milner (2008) pursues this approach empirically, although they see FTAs and multilateral liberalization as having similar effects. They write that it is no longer the threat of expropriation that poses the biggest concern for



foreign investors, but more subtle measures.

Hence, policies that imply limited government intervention in the economy, such as trade and financial openness, should be attractive to foreign investors. How credible, however, is a promise to maintain such economically liberal policies?...We argue that a government can make a more credible commitment regarding present and future economic policies by entering into international agreements that commit its country to the liberal economic policies that are seen as desirable by foreign investors. (pp. 741-742)

Büthe and Milner distinguish themselves from earlier empirical work through their emphasis on political aspects of commitment. Since they include agreements that may not have explicit investment provisions, they argue that the commitment comes from the visibility of governments' public commitments, the ability of private actors to bring external pressure to bear in case of violations, and potential reputational damage for a country that violates its commitments. In their empirical estimation, they find a significant positive effect of FTA participation on inward FDI in developing countries.

#### D) Democracy and governance

Beyond reciprocal market access and a commitment to the equitable treatment of foreign investors, there are arguments that trade agreements can have a broader political and procedural impact. One of the Bush Administration's arguments for the FTA with Peru was that it would strengthen freedom and democracy. (State, 2007).

Aaronson (2008) discusses the role of transparency requirements in U.S. trade agreements. These requirements are aimed at providing a predictable business environment, but there can be broader positive effects emanating from more effective and open public institutions.

U.S. policymakers also recognize that transparency can facilitate human rights...Government institutions will not function effectively without feedback. Citizens cannot provide such feedback without information about what government is doing or without the ability to participate in policymaking...Transparent, accountable governance can foster democracy, capitalism, and political stability. Thus, by promoting transparency, the rule of law, and political participation, policymakers can promote

many human rights. (p. 171).

This describes the general mechanism by which an FTA could have a broader influence on society. The key analytical questions for any broader statement about trade's impact on governance concern how narrow requirements that apply to a country's regulation of trade and investment could propagate throughout the government. Why would it not be possible, for instance, to have an open, transparent, and inclusive rule-making process when foreign investors are involved, but opaque and corrupt procedures for domestic investors or for other types of regulation?

One could imagine a number of hypotheses. First, it may be administratively difficult to have the same bureaucrat follow two radically different types of approach in his daily business. Second, the juxtaposition of open and corrupt practices may alter public expectations and pressures for improved governance. Third, it may be that there are reputational spillovers from transgressions in the non-trade sector to participants in the trade and investment sector (e.g. a corrupt resolution to a criminal case sours the opinion of resident investors, even if it has nothing to do with their investments). To our knowledge, this aspect of the political economy of trade agreements has yet to be fully developed in the literature.

### 3) *The case of Peru*

#### A) Economic history

Peru is classified by the World Bank as a "lower-middle income" country, with a per capita GDP of \$3,410 in 2007. That figure has risen dramatically from the beginning of the decade, when it was just \$2,080. Over this same time period, trade as a percentage of GDP rose from 27 percent to 45 percent. Peru's top exports are minerals (gold, copper, zinc), fishmeal, oil, textiles, and agricultural products (asparagus, coffee). It is a heavy importer of manufactures. The United States was Peru's top trading partner in 2008, supplying 18.9% of Peru's imports and purchasing 18.6% of Peru's exports. Peru has suffered from extreme poverty, with roughly half of the population at times living below the poverty line. In rural areas, a 2003 study reported a 76 percent poverty rate and 46 percent extreme poverty (Francke, 2006, p. 90). To put this in perspective, Peru's population was recently estimated at just below 30 million people.

Peru's history of governance has been distinctly uneven. There have been periods of military rule, most recently from 1968-1980. In the 1980s, under democratically elected governments, Peru suffered from hyperinflation, soaring poverty rates, and deadly terrorist attacks. The economic nadir came under the first administration of Peru's current president, Alan García, from 1985-1990. At its peak in 1990, inflation reached 7,650 percent.

The macroeconomic situation improved dramatically with economic reforms launched under the administration of President Alberto Fujimori. Nonetheless, difficulties with governance, corruption, and uncertainty about economic policy remained. A World Economic Forum survey on global competitiveness in 2006 listed policy instability as the most problematic factor for doing business in Peru, and "economic/policy uncertainty" as one of the top three constraints to firm investment.

As one analyst noted, by way of arguing for Peru as an interesting subject of study:

(U)nderpinning Peru's radical swings in economic performance since the demise of the country's liberal primary-exporter model in the late 1950s has been an equally erratic pattern of shifting and contradictory development strategies. While other countries in the region have flirted alternatively with state-led and market-oriented development models...Peru did so with a vengeance. (Wise, 2003, p. 9).

In the 2006 presidential election, Alan García returned to the presidency (on a more orthodox economic platform), narrowly defeating Ollanta Humala, a populist who emphasized economic redistribution. As reported by the New York Times, "Voters (saw) the race as an unappealing choice between a former president whose first administration had been an unmitigated disaster and a former army officer who once led a military rebellion." (Forero, 2006).

It was in the period leading up to this election that Peru negotiated its free trade agreement with the United States.

B) The role of trade

Peru's trade policy over recent decades had experienced remarkable fluctuations. After a period of more liberal trade, tariffs were hiked in 1982 as the country headed into

the debt crisis of the 1980s. Imports soared, exports shrank, and a foreign exchange crisis ensued under the first García presidency. At the end of President García's first term, there were 39 different tariff rates with an average level of 46.5 percent and a standard deviation of 25.7. There were additional surcharges of up to 24 percent on top of these. By April of 1990, the minimum tariff was 15 percent and the maximum was 84 percent.

In August of 1990, the Fujimori government reduced the maximum tariff to 50 percent and the minimum to 10. By September of 1990, the number of different tariff rates employed was reduced to 3 (15, 25, and 50 percent). The decreases in average tariffs are described in the table below :

<i>Date</i>	<i>Average Tariff (without surcharge)</i>
August 1990	38.1%
September 1990	26.3%
March 1991	16.8%
March 1992	17.6%
June 1993	16.3%
April 1997	13.5%

The WTO, in its 2000 review of Peruvian trade policies, concluded:

Reflecting Peru's generally open trade regime, total recorded merchandise trade grew at an average annual rate of 8.5% between 1994 and 1998.... Trade in services also grew significantly driven by the economic liberalization process. ... the stock of foreign direct investment increased five-fold since 1993 thanks to the stabilization process and the establishment of a legal framework for the promotion and the protection of investment. (WTO, 2000)

This progress in trade continued in the current decade. The WTO (2007) reported that while Peru's real GDP increased at an annual rate of 4.8 percent from 2000-2006, goods and services grew at an annual rate of 8.3 percent, driving merchandise trade from 27 to 41 percent of GDP. By April 2007, MFN tariffs were 8.2 percent.

During this period of liberalization, Peru was a beneficiary of tariff preferences from

the United States. The U.S. program, launched in December 1991 was initially known as the Andean Trade Preference Act (ATPA). This provided preferential access for ten years to Peru, Bolivia, Colombia, and Ecuador as a means of assistance in the fight against drug production and trafficking. (USTR, 2009, p. 3).

The Andean Trade Promotion and Drug Eradication Act (ATPDEA) was the successor legislation to ATPA. The transition between the two measures was not seamless, however. ATPA expired on December 4, 2001. ATPDEA was enacted on August 6, 2002 and the same Andean countries were designated as beneficiaries on October 31. ATPDEA was made retroactively applicable to the expiration date of ATPA.

The successor preference program had a shorter duration than the original, lasting only until December 31, 2006. Congress passed ever-shorter extensions after that to June 30, 2007; February 29, 2008; and December 31, 2008. (USTR, 2009).

Between the various preference programs on offer from the United States and goods on which the United States has zero MFN tariffs, the vast majority of Peru's exports entered the country duty free, prior to the implementation of the free trade agreement.

U.S. imports for consumption from Peru, 2006-2008

<i>Program</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
GSP (%)	3.0	4.7	4.6
ATPA (%)	26.5	30.1	26.0
ATPDEA (%)	27.8	27.9	28.2
MFN Duty Free	40.7	33.2	34.0
Duty Free (%)	98.0	95.9	92.8
Total value (\$bn)	\$5.897	\$5.207	\$5.840

Source: USTR, 2009, Table 2-2, p. 9.

- C) The U.S.-Peru Trade Promotion Agreement (PTPA)

In May 2004, the United States launched FTA discussions with Colombia, Ecuador, and Peru (Bolivia participated as an observer). The negotiations with Peru concluded on December 7, 2005 and the agreement was signed on April 12, 2006. The Peruvian Congress approved the PTPA by a 79 to 14 vote on June 28, 2006. (USTR 2009, pp. 2, 50).

Following the United States Congressional elections of 2006, there was an agreement between the President and Congress on May 10, 2007 to increase requirements for labor and environmental commitments in FTAs. In accordance with this, the PTPA was amended in June 2007 and approved by the U.S. Congress in December 2007. It came into force on February 1, 2009.

Aside from the additional labor and environmental measures, the PTPA followed the general structure of U.S. FTAs. Peru's preferential access under ATPA and GSP was made permanent. Duties were reduced with phase-ins of up to 17 years. Beyond market access in goods (chapter 2) and textiles and apparel (chapter 3), other chapters covered rules of origin; services trade; telecommunications; customs administration; sanitary and phytosanitary measures; technical barriers to trade, electronic commerce; trade remedies; government procurement; investment; competition policy; intellectual property rights; labor; the environment; transparency; and dispute settlement. (USITC, 2006, p. xviii).

This extensive set of commitments is the norm for U.S. FTAs and illustrates why a simple model of reciprocal tariff liberalization may not adequately capture the impact of such an agreement.

In particular, some of the measures deal very directly with broader governance reform subjects. The USITC describes the investment chapter as requiring "a secure, predictable legal framework and an investor-state dispute settlement process." The transparency chapter "requires that each party make publicly available all laws, regulations, and procedures regarding any and all matters covered by the agreement" and provides for anticorruption provisions with criminal prosecution and penalties for bribery and corruption. (USITC, 2006).

In assessing the likely effects of the PTPA on the United States, the USITC found they

were likely to be “small because Peru’s economy is small relative to the U.S. economy, its share of total U.S. trade is small, and Peru has existing duty-free access to the U.S. market under the (ATPA).” Specifically, the USITC estimated that the growth in U.S. exports to Peru would be more than double Peru’s new exports to the United States:

As most of the effects of tariff elimination on goods are driven by Peru’s removal of tariffs facing U.S. exports, ... U.S. imports from Peru may be higher by approximately \$439 million, U.S. exports to Peru higher by \$1.1 billion, and U.S. GDP higher by more than \$2.1 billion. Only three U.S. sectors—metals n.e.c. (mainly gold, copper, and aluminum), crops n.e.c. (e.g., cut flowers, live plants, and seeds), and paddy rice—are estimated to experience a decline in output, revenue, or employment of more than 0.10 percent. (USITC, p. iii).

The \$2.1 billion estimated increase in U.S. GDP would have constituted .016 percent of 2006 GDP (\$13.178 trillion). A Peruvian study, in contrast, estimated that the agreement would raise GDP by 3.3 percent, largely because of increased productivity. (Morón, 2005, p. 2).

D) What did the US want in the FTA?

Before delving into the central question of what motivated Peruvians in seeking the PTPA, we can briefly consider U.S. motives. The PTPA came as part of a program of seeking FTA partners around the world. From 1995 to 2005, the United States had actively pursued hemispheric trade liberalization under a Free Trade Agreement of the Americas. As that approach faltered, the United States pursued FTAs with many of the countries of Latin America outside the Mercosur bloc. Thus, after NAFTA with Mexico, the United States pursued agreements with Chile, the Central American nations and the Dominican Republic, and then the Andean nations.

In the Andean case, the FTAs served at least five purposes. First, the United States did gain market access and there were domestic constituencies that cared about that access. Second, this helped cement an alliance with Peru. Third, there had been a long-standing goal of free trade within the hemisphere. Fourth, the United States had declared development to be an important part of its national security strategy and FTAs were considered an effective means of promoting development in partner countries. Finally, as the successor to the ATPA/ATPDEA programs, trade with Andean nations

was seen as useful in combating narcotics traffic.

4) *Peru's Motivations and Interpretation*

A) Interviews

The principal question behind this study is why Peru sought the free trade agreement with the United States. This question was pursued through a series of interviews with current and former Peruvian officials as well as individuals from academia and the private sector. The interviewees were not a random sample; they were selected for their experience and perspectives on the agreement. The fruit of these interviews is qualitative, not quantitative. There was a substantial degree of consensus among interviewees about key factors driving Peru's quest for a free trade agreement with the United States and in this section these views are synthesized to construct an interpretation of the agreement and Peru's motives. The goal is to pull together common strands so as to provide new stylized facts. To the extent we accept this 'learning' version of events, it is important to note that the segments of the Peruvian electorate who were swayed by them were employing significantly lower standards of proof than those normally employed by academics.

B) Commitment Device

The most striking commonality in responses was the secondary or tertiary role given to standard market access arguments. The trade agreement was seen as playing an important role in locking in Peru's reforms. There were economic and legal reforms that accompanied the implementation of the agreement in the last year, but most respondents described the key period of reform as coming much earlier, during the beginning of the Fujimori presidency in the early 1990s. Instead, most respondents believed that the embrace of free trade with the United States would prevent the sort of economic backsliding that they saw as a recurring problem in Peruvian development.

As one means of eliciting meaningful responses about the relative importance of different motives for the FTA, all respondents were asked the question: "In ten years, if we were to judge whether the agreement has succeeded, on what grounds would we make that judgment?" Only one interviewee – in the textile and apparel sector



– suggested expanded trade flows as a principal measure. Far more common were suggestions that increased economic growth or a reduction in the poverty rate would be legitimate criteria. In follow-up discussion to this question, many respondents made clear that despite the multiplicity of factors that can drive a country's growth or poverty statistics, they saw the FTA as sufficiently central to make this a fair measure.

The key mechanism by which the FTA would achieve these results was investment. There are at least three paths by which the agreement was seen as encouraging investment. First, by embedding reforms in an international agreement, it promised a future consistency in Peru's approach to macroeconomic policy and regulation. Second, in an environment of uncertain legal rights for investors, the dispute settlement provisions of the agreement offered increased certainty. Third, export-oriented investment would face more predictable market access in both the United States market and other markets.

It is not immediately obvious why a trade agreement promises macroeconomic stability. As broad as U.S. trade agreements have been in their coverage, they do not prescribe standards for fiscal or monetary behavior. Presumably, the argument for FTA efficacy in this regard hinges on the empirical correlation between stances on different facets of economic policy. Political leaders who are concerned enough about incentives for investment to strengthen investor rights and lock in regulatory behavior are unlikely to seek to undermine the investment environment through inflationary monetary policy, for example. This is the basis of the signaling argument for FTAs, a theoretical basis for some of the investment and commitment arguments made above.

If we oversimplify and imagine only two types of government – Benign and Predatory – each will have preferences over a range of policy instruments. We could readily construct scenarios in which each type would be anxious to declare itself Benign. In the case of the Benign government, it would be honest and would wish to enjoy the benefits of a good reputation. In the case of the Predatory government, it would like to lure investment to then predate. How, then can a Benign government establish its credibility? It can undertake commitments that would be sufficiently distasteful to a Predatory government that the willingness to undertake them credibly signals the government's type.

How does this constrain future governments? It presents such a government with a difficult choice. As with the archetypal Predatory government described above, the ideal for an incoming government would be to maintain domestic and foreign investment without setting off alarms, at least for some period of time. The strictures of a high-standards FTA make this very difficult. There are fewer easy and subtle ways to transgress. The new government would retain the right to withdraw from the agreement, but to do so would send a highly visible negative signal to the world.

In the Peruvian case, many of the economic reforms – such as tariff reductions – were undertaken well before the FTA. The FTA, however, demonstrated to the world the depth of Peru's commitment to reform. The idea of governments signaling bona fides by undertaking international commitments is not new to the literature, but the Peruvian example sheds light on a number of these academic discussions. Peru completed a high-standards FTA with the United States as a core part of its recent global economic debut. One subject of inquiry in the interviews was why Peru had chosen this path over three prominent alternatives: a bilateral investment treaty (BIT); a low-standards FTA; or liberalization under the World Trade Organization.

There has been an inconclusive literature on the effect of BITs in encouraging investment. This literature, however, may have been somewhat misled by nomenclature. While it is true that bilateral investment treaties do aim to encourage investment, they are not the only such measure to aim to set rules to protect foreign investors. A principal finding of this study is that while free trade agreements nominally aim to encourage trade flows, they are very much intended to encourage investment.

The United States government, when considering candidate countries for FTAs, has in the past treated BITs as a stepping stone. The BITs covered much of the same territory as the investment chapters of U.S. FTAs and their negotiation could serve as a test of the partner countries' readiness to undertake the more extensive FTA talks. But Peru did not pursue a BIT with the United States. One well-placed interviewee explained that this would have been pointless. By the time Peru was ready to think about such an agreement, the possibility of an FTA was available. The FTA with the United States was perceived as offering all the advantages of a BIT, and more.

A second alternative would have been to pursue a low-standards free trade agreement.

There is no formal definition, but this would mean an agreement that did not require extensive liberalization and did not require the participants to undertake extensive commitments in investment and services. Such FTAs of limited scope are very common, particularly between developing nations. Peru is a member of the Community of Andean Nations (CAN) and hosts its headquarters in Lima. Peru joined the FTA among CAN members in 1997. A number of interviewees argued, however, that Peru's participation had yielded little significant economic benefit. This inefficacy might be expected on either trade or investment grounds. In trade, the other CAN members would be likely to have similar comparative advantages to Peru. In investment, partner nations such as Venezuela, Bolivia, and Ecuador have had their own recent difficulties with foreign investors and would be unable to bestow a credible seal of good behavior on Peru. This did not prevent Peru from participating in the regional FTA, but that participation was driven by very different motives than the ones driving the negotiation with the United States.

A final alternative for Peru would have been to use the World Trade Organization as a forum for committing itself to a different economic policy stance. Commitments made at the WTO would have applied to all of Peru's trading partners and would have avoided the economic distortions that can accompany preferential liberalization. Peru was a founding member of the WTO and was an early member of its predecessor, the General Agreement on Tariffs and Trade (GATT).

None of the former Peruvian officials who were asked about the WTO thought that it could have played the role they sought for the US-Peru FTA. They cited a very practical problem of timing. The current round of talks at the WTO – the Doha Development Agenda – launched in late 2001 and experienced a series of stumbles after that. A last-ditch effort to complete the round in the summer of 2008 fell apart (Blustein, 2008). Though the latest dramatic failure of negotiations occurred well after Peru's U.S. FTA negotiations had concluded, the talks had encountered serious difficulties at least as early as the Cancun Ministerial in the fall of 2003. While the former officials described Peru's good-faith participation in the ongoing WTO talks, they did not see those talks as a viable vehicle for committing to a more liberal economic policy.

The question of whether FTAs contribute to or detract from prospects for broader, more efficient trade liberalization under the WTO has been a salient one in econom-

ic discussions of plurilateral liberalization (see especially Bhagwati, 2008). A central thrust of the criticism of FTAs has been that they distract countries from the multi-lateral alternative. Peru clearly had limited negotiating resources, but it's very difficult to make the argument that the Peruvian government was distracted by the FTA. First, Peru remained an active and constructive participant in WTO talks. Second, there were no actions Peru could have taken to advance the WTO talks in any appreciable way. Finally, it would have been very difficult for Peru to use the WTO as a commitment device, even had there been the rare availability of a negotiating round near its conclusion. This difficulty stems from the traditional "separate and differential" treatment of developing nations under the GATT and WTO (see Srinivasan, 2000). That approach meant that WTO membership carries neither a good nor a bad economic policy connotation for developing countries, since so little is required of them by the WTO. Peru's own experience illustrates this, since the high trade barriers of the 1980s were just as consistent with GATT membership as the lower barriers of a decade later.

Further, the FTA covered issues that have been excluded from WTO talks. In the Peruvian case, the most important example is the treatment of investors, which interviewees consistently cited as an important discipline in the face of a weak judiciary. Developing country opposition has kept broad investment disciplines off the agenda at the WTO.

The question of whether FTAs impede global liberalization if we restrict our focus to the traditional exchange of market access is addressed below.

### C) Trade Liberalization

If North-South FTAs are seen as vehicles for obtaining reciprocal market access, the United States' agreements throughout Latin America pose a puzzle. From NAFTA on, there have been large asymmetries in the granting of market access. On the eve of NAFTA, U.S. average tariffs against Mexico were just over 3 percent. Mexican tariffs, in contrast, were substantially higher ex ante. The same pattern held for the participants in the CAFTA-DR agreement, who largely had tariff-free access through the Caribbean Basin Initiative. As described above, it also held for Peru, which enjoyed access to the U.S. market through ATPDEA. The puzzle was how we could imagine

countries to be exchanging market access when the United States' partner countries seemed to be yielding access and receiving little more access than they enjoyed under the status quo.

One consistent response of the interviewees was that the goal of access to the United States market was an important driver for Peru. The access that Peru enjoyed through ATPDEA was seen as tenuous. Whereas the preferences had initially been granted for a lengthy period, the extensions were for ever-shorter periods and the extensions involved Congressional debates that were becoming increasingly interventionist.

It could be argued that the United States revokes preferences only very rarely. In fact, one of the remarkable features of recent partisan trade debates in the United States has been the tendency of FTA opponents to support preference programs; unilateral granting of market access is acceptable but receiving reciprocal treatment is not. Given this past behavior and the linkage between trade preference programs and drug enforcement efforts, it would have seemed that the Peruvians had little to worry about.

And yet they did worry. The Congressional debates on renewal of ATPDEA were taken very seriously. While it was true that withdrawal of preferences was rare, the recent occurrences or threats had involved Peru's neighbors, Ecuador and Bolivia.

Those actions had followed provocative incidents in which the neighboring Andean governments took actions to antagonize the United States, but Peruvians had no difficulty imagining themselves in that position after the 2006 election in which Ollanta Humala, a candidate backed by Venezuelan President Hugo Chavez, was only narrowly defeated.

Further, it is not the objective probability of ATPDEA withdrawal that mattered, but investor perceptions. Interviewees consistently argued that uncertainty over the future of ATPDEA inhibited investment in Peru. The FTA offered an end to this uncertainty.

This would seem to offer some support for the argument that FTAs are about reciprocal market access. At a minimum, though, this line of argument would require an intertemporal model. Peru perceived itself as trading current-period access to its own market against future-period access to the United States market. Alternatively, if we

are weighing a reciprocal market access explanation against an investment explanation, Peru seemed to be making market access concessions in exchange for the encouragement of investment.

As a final note on the role of reciprocal market access in motivating the FTA, several interviewees suggested that the role of access to the United States market was potentially exaggerated in the domestic debate over the agreement in Peru. Market access was seen as easier to explain to the public than other benefits of the agreement. If so, this would be entirely consistent with political practice in the United States, where FTA discussions often revolve around jobs gained or lost, despite credible USITC estimates that the agreements will have a negligible economic impact.

#### D) Explaining the sequence

As noted above, one of the more contentious academic debates about FTAs concerns their impact on broader multilateral liberalization. In fact, the economic analysis of FTA impacts has largely been split between static analyses, which look at trade creation and trade diversion, and dynamic analyses, which consider the political economy of the agreements and where they might lead.

The political economy analyses of FTAs feature a range of analytic approaches. Some rely upon median voter models, some on the relative power of interest groups, and some on explicit models of lobbying in policy formation. One common feature, however, is that individuals and groups within the economy have a clear understanding of how policy measures like new FTAs will affect their well-being. If we wish to predict the trade policy stance of a Peruvian asparagus farmer under this approach, for example, we need only ask whether a trade agreement would raise or lower that farmer's real income (which is very likely to be the same as asking whether the price of asparagus will rise or fall). Barring large swings in taste or asparagus production technology, the answer to this question is likely to be the same whether it is asked in the late 1980s or two decades later.

In fact, over that time period Peru went from being a country with very high trade barriers to become a country aggressively seeking opportunities to undertake trade liberalization. A number of interviews shed light on this transformation and thereby on the dynamic FTA literature. The narrative involves learning, a change in views among

important segments of the population about what effect trade liberalization would have on them.

### *Learning*

There were three episodes described as important in shifting opinion about trade: the first presidency of Alan García (1985-1990); Chile's pursuit of free trade agreements; and Peru's experience under ATPDEA. The cumulative effect was not described as an unconditional embrace of trade liberalization among the Peruvian public; the FTA with the United States was still contentious. Instead, the interviewees argued, the effect of these episodes was to persuade a sufficient part of the public and some key groups – such as some manufacturers and agricultural producers – to switch from opposing to favoring the FTA.

As described above, the García presidency of the late 1980s featured heavy state intervention in the economy and high barriers to trade. The difficult economic situation that President García inherited in 1985 deteriorated dramatically. Per capita GDP fell sharply, the poverty rate soared, Peru suffered from hyperinflation, and there was a surge in violence from the Shining Path guerilla movement. The successor administration of Alberto Fujimori adopted a more market-oriented reform program and Peru climbed out of the depths of its economic disaster. This contrast served to cast doubt on the wisdom of interventionist policies among some portion of the population. This marked a broader ideological shift that had important implications for international trade.

The second instructive episode concerned Peru's southern neighbor and sometimes-rival, Chile. By any economic measure, Chile has been one of the most successful economies in Latin America in recent decades. Since the 1970s, Chile had favored a relatively open trade policy. In the 1990s, it signed a number of trade agreements with Canada and Latin American countries, including Mexico, the Central American nations, and Mercosur. This decade, it reached agreements with Europe (EFTA in 2002, EU in 2003), the United States (2003), Korea (2003), China (2005), Japan (2007). Thus, when Peruvians looked to their most economically successful neighbor for a model of how to advance, they saw a country reaching a series of high-standard FTAs with partners from around the world.

The third instructive episode involved the ATPA/ATPDEA preferences extended by the United States. As discussed above, these preferences were ultimately seen as too temporary to provide Peru with the investment benefits that more permanent market access might bring. But, as one interviewee put it, the ATPDEA offered a taste of what free trade had to offer. It did offer significant access to the United States market and Peru experienced some unexpected successes. It saw notable agricultural gains in the export of asparagus and paprika, for example. One of the most striking aspects of those successes was that they occurred in coastal regions outside of the capital city, Lima. There was also some progress in the export of textiles and apparel. This seemed to contradict the popular belief that market successes would be limited to the mining sector and to relatively prosperous Lima, where one third of Peru's population lives.

It is this third episode that comes closest to fitting academic models of learning, but there is still a substantial gap between theory and experience. The more vague the academic model – such as one positing an unspecified reform that is assumed to have a particular probability distribution of winners and losers – the better the fit. This disconnect is perhaps to be expected. In a more fully specified model, the key determinants of comparative advantage in this setting – labor costs, climate, technology, capital, global tastes – change very little. A perfectly informed agent would have the tools available to make strong predictions about the potential of certain export sectors. That this potential in Peru was realized only after the experiment of ATPDEA seems to be evidence that some agents were not perfectly informed.

To the extent we accept this 'learning' version of events, it is important to note that the segments of the Peruvian electorate who were swayed by them were employing significantly lower standards of proof than those employed by academic journal referees. None of these episodes constituted a controlled experiment and it is not difficult to identify potential confounding factors, such as sharp movements in global commodity prices. Chile's successful pursuit of FTAs does not prove that a similar approach would work for Peru. This is part of the challenge for rigorous theoretical modeling in the presence of imperfectly-informed actors. Yet the interviewees who described the shifts were offering their interpretations of their extensive and first-hand dealings with the public on the question of the FTA.



### *Trade Liberalization*

The questions of motive and learning addressed above are critical for assessing the systemic implications of countries' embrace of FTAs. This section has largely presented the views of interviewees about the important factors behind the pursuit of the U.S.-Peru FTA. Here, we briefly describe some of the respondents' views on the way the FTA influenced subsequent trade policies by Peru. The perceived role of the FTA and Peru's ex post actions may also shed light on the relative importance of different ex ante motivations.

One common theme among the trade policymakers interviewed was that the FTA with the United States greatly facilitated the pursuit of subsequent FTAs with other trading partners. In the wake of the FTA with the United States, Peru has been very active in pursuing bilateral agreements. Partner countries have included Canada, China, EFTA, the European Union, Mexico, South Korea, Singapore, and Thailand. The claim, by the Peruvian interviewees with extensive experience in trade negotiations, is that the subsequent agreements were made much easier by the successful completion of an FTA with the United States. They said there was sufficient similarity between agreements that the work of meeting U.S. demands left relatively little work to do with other countries. It is true that a significant number of Peru's recent FTA partners also have negotiated FTAs with the United States (e.g. Canada, Chile, Mexico, South Korea, and Singapore).

This argument that the FTA with the United States significantly cut the cost of reaching subsequent FTAs helps illustrate the extent to which FTAs emphasize matters other than reciprocal market access. Whereas chapters dealing with investment restrictions, dispute resolution, intellectual property protection, and sanitary and phytosanitary regulation might be readily copied from one agreement to another, that would be much less feasible for the treatment of market access in sensitive sectors, since the sensitivity would depend heavily on production costs which would vary a great deal among country pairings.

The breadth of Peru's network of FTAs reinforces the claim that Peru was using FTAs as a means of achieving broad liberalization and attracting investment. A principal concern of the literature on the dynamic effects of FTAs was with the decision a

country might make to obstruct further progress toward liberalization once it decided it had reached some individually-optimal configuration of agreements. That kind of argument is entirely consistent with behavior that is focused on terms-of-trade and reciprocal market access. The very different motives suggested by the broad-based pursuit of FTAs would seem to pose substantially less danger of a fractured and discriminatory global trading system.

#### E) Effects beyond trade

Finally, there was a strong sense among interviewees that the PTPA with the United States would have an important impact on the rule of law in Peru. This hoped-for improvement would take place in an area of particular weakness for Peru. One analyst writes: “Peru stands out among the countries of Latin America for the weakness of its democratic institutions and the absence of a strong democratic culture.” (Crabtree, 2006, p. 26). Dargent Bocanegra (2006) argues that the judicial system is particularly weak in Peru, a sentiment that was echoed in interviews.

Access to justice in many parts of Peru is unavailable...The service provided is in any case low-quality, lengthy and riddled with bureaucratic red tape...norms in Peru are applied partially and inequitably. (p. 137)

Interviewees saw the prospect of improved rule of law as a major benefit of the PTPA. This would apply most directly to investors who would have access to the investor-state dispute settlement provisions of the agreement, thus effectively circumventing the Peruvian judicial system. One interviewee even suggested that some investments might be undertaken just to gain standing to operate under this alternative legal system.

But there was also a sense that the measures in the PTPA could bring progress more broadly. Just as the agreement signals a commitment to a better investment environment, it also was seen as signaling a commitment to a better legal environment more generally.

Perhaps the strongest expression of this comes from Tovar Gil (2008):

The PTPA is not a means of bilateral tariff reductions, limited to international trade

and its gradual liberalization. It cannot be reduced to a discussion between importers and exporters, or producers who win or lose. This view misses an essential aspect of this new international relationship: its normative side...this is an agreement of much greater significance, that will have effects that are more complex, whose achievements transcend the realm of the strictly commercial to establish an international regulatory framework for investment and services, with its own standards and rules for international investment law.

This regulatory framework, at the same time, represents a model of organization linked to a vision of a market economy...

In practice, Peru's legal framework already contains the bulk of the standards required by the agreement... (but) there is a fundamental change relating to investments and investors that we must recognize ... The standards and rules of this macro regulatory framework will now form part of Peru's international obligations. The rules are not shaped through a national plan or internally, but rather transcend into a different judicial dimension, the international dimension...

The PTPA is an international agreement and, as such, Peru cannot deviate from the basic rules on its own volition, for the mere exercise of its sovereignty, unless it decides to reject the agreement, which in practice would mean exclusion from the market most relevant for Peruvian products, with all the consequences that would bring.

Tovar Gil moves back and forth between investment rules and a much broader vision of a state with a difficult history that now finds itself constrained from acting capriciously.

##### 5) *Conclusions*

The results of this study suggest that the PTPA was principally seen as a means of locking in economic reforms in Peru and facilitate broader integration into the world economy. Peruvian leaders hoped to make Peru a more attractive destination for investment, both domestic and foreign. The deep integration embodied in the agreement was seen as an effective means to do this. While market access did play a role, it was not the conventionally modeled one in which countries contemporaneously exchange tariff cuts. Instead, Peru offered market access in exchange for greater certainty about the access it already enjoyed into the U.S. market.

The evidence of this paper, derived from a case study rather than broad data, can only be suggestive, not conclusive. Yet in a number of ways, Peru looks like a typical mid-sized developing country. It is a poor country with high inequality; it experienced periods of poor governance and heavy state intervention; it has relied heavily on agricultural and commodity exports; and it has enjoyed trade preferences from leading developed nations. Further, Peru's recent approach to policy has been similar to that of other prominent developing nations, such as Mexico and Chile. Thus, an exploration of Peru's motivations may have some broader applicability.

The question of motivation for a policy is important, not least because it ultimately helps shape the judgment that is rendered on that policy. If a trade agreement is presented as a means for achieving market access, exports, and jobs, it is likely to be judged on future jobs figures. One of the more striking results of this study's interviews was the extent to which Peruvian proponents of the PTPA were willing to have it judged not on its trade effects, but on its ability to address Peru's core economic challenges of growth and poverty alleviation.

A number of the responses in this study cry out for further research. In particular, the political economy dynamics by which Peruvian political support swung from backing a highly insular approach to supporting opening. Also, the extent to which legal rights and practices were seen as spreading out from the areas covered directly by the agreement to the rest of the economy merits further consideration.

The role attributed to the agreement in encouraging good governance was also particularly noteworthy. The importance of governance in fostering development and prosperity has been a strong theme emanating from the World Bank and some development experts. The difficulty is that there are relatively few effective tools available to improve governance. The Peruvian respondents in this study clearly perceived the PTPA as such an instrument.

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## **“Trade – Peru: Signing Away Too Many Rights?”**

By Salazar Milagros

IPS – Inter Press Service

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'Who benefits from these free trade agreements (FTA)? What policies have been put in place to ensure fairer redistribution of the profits from foreign trade? Over the last year, only a handful of people have benefited,' Alejandra Alayza, coordinator of the Peruvian Network for Globalisation with Equity (RedGE), told IPS.

The United States-Peru Trade Promotion Agreement (PTPA) came into effect Feb. 1, 2009 and set the pattern for negotiating the terms and conditions of subsequent agreements, Alayza said. It was followed by FTAs with Chile, Mercosur (the Southern Common Market, made up of Argentina, Brazil, Paraguay and Uruguay), Canada, Singapore and China.

This month saw the conclusion of negotiations on an FTA with the European Union, and Foreign Minister José Antonio García Belaúnde has already announced that the government of President Alan García is intent on closing similar deals with Japan and South Korea.

Peru is also entering into talks with Central America, the Dominican Republic and the Trans-Pacific Strategic Economic Partnership Agreement, which includes Chile, New Zealand, Singapore, the United States and other countries.

'In the context of signing so many FTAs, it is essential to guarantee labour rights so that workers share in the benefits,' Alayza emphasised.

Former deputy Labour Minister Julio Gamero, an expert on labour issues, told IPS that the PTPA with the United States has not improved employment conditions and workers' rights in the country. In fact, he said, in some ways they have worsened.

The number of collective bargaining agreements between organised workers and employers on wages and conditions was 434 in 2007, but declined sharply to 364 in 2008 and 233 in 2009.

Health and safety inspections of workplaces in the Lima metropolitan area also fell, from 742 in 2008 to 326 in 2009, while the proportion of workers belonging to trade unions dropped from 7.1 percent of those in formal jobs in 2007, to 4.5 percent in 2009.

The agricultural exports sector, which reaps the most benefits from the PTPA, has only five workers' unions among its 1,500 companies.

Aspects such as the right to form trade unions, wage conditions and compliance with the country's labour laws were incorporated as an annex on labour issues in the PTPA, only after pressure was exerted by social organisations.

However, 'the authorities have only adopted short-term measures,' said Gamero, who was in the administration of former president Alejandro Toledo, García's predecessor.

Gamero said that only when a U.S. delegation came to Lima in January to examine labour issues was it announced that a liaison office would be set up between the government and trade unions to deal with conflicts and workers' demands.

'A year has gone by, and only this one meagre step has been taken, while dismissals of union leaders and workers who join unions continue apace,' he complained.

Neither have measures been taken to cushion the negative impacts on the most sensitive sectors, such as agriculture, experts say.

Only three percent of Peru's agricultural land is used for growing asparagus, mango, sweet peppers and other leading agricultural exports, the sector that is most favoured by the PTPA with the United States.

In contrast, 73 percent of agricultural land is used to cultivate potato, rice, maize, coffee, sugarcane and cotton, which are particularly sensitive products under the agreement, because of the subsidies paid to U.S. producers of these foods.

President García 'promised he would renegotiate the PTPA in order to protect peasant farmers and institute compensatory prices and subsidies for three products (maize, cotton and wheat), but he has not done so,' Alayza said.

Agricultural expert Miguel Macedo proposed an automatic tariff mechanism to correct price distortions in the case of subsidised products imported from industrialised countries. He also proposed carrying out a detailed census of agricultural producers, and improving the country's estimates for production quantities and the impact of the FTAs.

These proposals are among several initiatives for internal discussions that have been raised by various non-governmental organisations in the context of Peru's removal of its trade barriers.

With regard to environmental issues, a new forestry and wildlife law including the views of indigenous people and civil society is still pending approval by Congress.

While preparing the way for the PTPA with the United States, Peru's forestry laws were modified by a legislative decree, which was later repealed after mass protests by forest-dwelling indigenous peoples.

In August 2009, the Agriculture Ministry declared that revising and updating the law, by means of a participative, decentralised and nationwide process, was a priority. But a secretariat for this purpose was not set up until December.

After the June 2009 conflict in the jungle province of Bagua, in which 33 police and indigenous people were killed when the security forces cracked down on a protest by native demonstrators, the executive branch held meetings for dialogue, seeking views on the forestry laws. But Sandro Chávez, head of Foro Ecológico, a biodiversity conservation organisation, told IPS that the government's draft law does not reflect the contributions made by experts and indigenous peoples at those meetings.

Another aspect of the PTPA that has come under expert criticism is its protection of intellectual property rights over test data on new medicines. PTPA rules allow pharmaceutical companies to



withhold information about any patented medicine for five years, thus securing a monopoly that excludes competitors and maintains high prices.

According to Javier Llamaza, of Health Action International Latin America (AISLAC), 'protecting test data on medications is a way of creating a monopoly, which violates people's basic right to health.' He said at least 12 applications for such protection have been made, by eight different companies, and two applications have already been approved.

Llamaza said that when generic versions of a drug become available on the market, prices typically fall by between 30 and 70 percent, while if a company has a monopoly on a drug, its price can increase up to 21-fold.

Recently, criticism has also been levelled at the FTA with China, in force since Mar. 1.

A study by economist Víctor Torres indicates that the sectors worst affected by this agreement, like the garment industry, leather production for footwear and the textile industry, have only been partially protected from China's low prices and allegedly unfair trade practices. As a result, lay-offs are likely to occur in these labour intensive sectors.

Micro and small businesses (MSEs) are the most likely to suffer from the FTA, as in the footwear industry, for example, where 98.5 percent of companies are MSEs.

The FTA with China lacks even a minimum framework for environmental standards and labour protection.

China introduced a broad definition of investors which includes companies from other foreign countries as long as they are controlled by Chinese capital. Under the FTA, however, Peru does not enjoy the same privilege.

In case of disputes, China cannot be sued in international courts without the case first going through an 'internal administrative review process' in China. This safeguard is not applicable to Peru, however, which will therefore need to be on its guard, experts say. © NoticiasFinancieras - Inter Press Services - All rights reserved

## “More of the Amazon opened to oil development”

Jeremy Hance  
MongaBay.com  
May 24, 2010

*Peruvian oil abandons plan to drill in uncontacted indigenous zone, but opens up new areas.*

Perupetro, the Peruvian government's oil and gas corporate leasing body, announced last week that it will open an additional 25 lots for oil and gas exploration in the Amazon covering an area of 10 million hectares (nearly 25 million acres).

Peru's national Amazon indigenous group, AIDSEP, criticized the move calling it a 'new threat' to Peru's indigenous group. According to Amazon Watch these new lots mean that 75 percent of the Peruvian Amazon is now open to oil and gas exploration and drilling.

"Peru is opening some of the most remote regions of the Amazon to oil drilling, threatening some of the most biodiverse forests on the planet and the lives of the indigenous peoples who depend on this forest for their livelihoods," said Atossa Soltani, Amazon Watch Executive Director in a press release. "The current disaster in the Gulf of Mexico is a clear demonstration of the risks involved. An oil spill in the Amazon would create an ecological disaster."



**Oil blocks**  
■ Leased  
▨ Not yet leased  
□ Protected Areas - IUCN I to III  
— Oil & Gas Pipelines

Oil and gas blocks in the western Amazon as of February 2010. Solid yellow indicates blocks already leased out to companies. Hashed yellow indicates proposed blocks or blocks still in the negotiation phase. Protected areas shown

Indigenous groups have long been fighting big oil in the South American country. Last year the conflict turned violent: a standoff between indigenous protestors and government police ended with 23 police officers and at least 10 protestors dead.

Perupetro also made the announcement that it will abandon plans for oil exploration in an area with uncontacted tribal peoples. Lot 110, which was previously open to Brazilian company, Petrobras, will now be made off-limits.

According to Survival International, the uncontacted tribe is known either as Murunahua or Chitonahua. When some members of the tribe were contacted in the mid-1990s it is estimated that half of them died. Having had little exposure to many diseases, uncontacted natives are in grave danger when contacted by outsiders.

"It's good news that the Murunahua Reserve has been made off-limits to oil and gas companies because it would have been extremely dangerous to the tribes, and the companies would have had no consent to operate there. But Perupetro must now extend that precedent to other areas in Peru: it must not allow companies to work anywhere where they don't have the consent of local people—uncontacted or not," Survival International director, Stephen Corry, said in a press release.

A study earlier in the year found that 41 percent of the Peruvian Amazon was already covered by 52 active oil and gas concessions. The space under concession had grown six times in seven years. The study also found that many of the concessions infringed on protected areas and indigenous territory, exacerbating the conflict between indigenous groups and the Peruvian government, led by President Alan Garcia who is known for his inflammatory rhetoric against indigenous groups, labeling them "confused savages" among other derogatory terms.

are those considered strictly protected by the IUCN (categories I to III). Image modified from Finer M, Jenkins CN, Pimm SL, Keane B, Ross C, 2008 Oil and Gas Projects in the Western Amazon: Threats to Wilderness, Biodiversity, and Indigenous Peoples. PLoS ONE 3(8): e2932.

doi:10.1371/journal.pone.0002932

### **Climate change in the Andes: When ice turns to water**

Economist, The (London, England) - Saturday, July 14, 2007

Glacial melting poses potentially costly problems for Peru and Bolivia

FOR centuries, the run-off from the glaciers atop the spectacular snow-capped mountains of the Carabaya range has watered the pastures where alpacas graze around the small town of Macusani. More recently, the mountains have provided the town with drinking water and hydroelectricity, as well as hopes of attracting tourists to one of Peru 's poorest areas. But in Carabaya, as across the Andes, the glaciers are melting fast. Their impending disappearance has large, and possibly catastrophic, implications for the country's economy and for human life.

Peru is home to the world's biggest expanse of tropical glaciers . Of the 2,500 square kilometres (965 square miles) of glaciers in the four countries of the tropical Andes--Bolivia, Colombia, Ecuador and Peru --70% are in Peru and 20% in Bolivia. The last comprehensive satellite survey by Peru 's National Environmental Council, carried out in 1997, found that the area covered by glaciers had shrunk by 22% since the early 1960s. In the Carabaya range, they had receded by 32%.

Partial surveys by geologists suggest that the rate at which the glaciers are melting has speeded up over the past decade. The glacier at Pastoruri, in the Cordillera Blanca range north of Lima, shrank by more than 40% between 1995 and 2006, with the loss of ice caves popular with tourists, according to Marco Zapata, a glaciologist at the government's Natural Resources Institute. He reckons it will be gone by 2015. That is the fate that has already overtaken many smaller glaciers in Bolivia, and that of Cotacachi in Ecuador. Chacaltaya, above Bolivia's capital, La Paz, has almost disappeared; it is the site of the country's only ski resort, whose future is now uncertain.

"We are already experiencing the effects of global warming," says Nancy Rossel, the mayor of Macusani. To those who doubt its existence, she offers to show them pictures taken ten years ago of Allinccapac, the mountain above the town, and "they can see how far the glaciers have receded." A report by a team from the World Bank published last month in the bulletin of the American Geophysical Union (AGU), a scientific association based in Washington, DC, confirms most of the mayor's fears. It predicts that many of the lower glaciers in the Andes will be gone in the next decade or so, and that glacial runoff may dry up altogether within 20 years. It also paints a troubling picture of the future impact on water and power supplies.

One danger is that as the ice melts, newly formed lakes may send water cascading down mountainsides, triggering mudslides that are potentially lethal for the villages below. Another is that if there are no glaciers to regulate water flow, flood will alternate with drought.

That is a particular worry for Peru. After decades of migration from the Andes, two out of three Peruvians now live on its desert coast. Lima, with 8m people, is the world's second largest city located in a desert, after Cairo. Big irrigation projects have made the desert bloom and enabled an agro-export boom. Yet most of Peru 's fresh water lies east of the Andes. Water for both irrigation and human consumption from the short, coastal rivers will become more irregular. The government says it needs to spend about \$4.5 billion to bring domestic potable-water coverage up from its current level of 78% to the regional norm of over 90%. Billions more will be needed to divert water along tunnels beneath the Andes if glacial melting accelerates.

Another problem is that more than 70% of Peru 's electricity comes from hydroelectric dams sited on the glacier -fed rivers. If their flow becomes more irregular, so will power supply. Once the

glaciers disappear, Peru will have to invest \$1.5 billion a year in thermal generation, according to the AGU article.

Some of these problems are common to neighbouring countries. The Bolivian Mountain Institute, an NGO, reckons that glacial melting threatens water supplies to La Paz and its satellite city, El Alto, and will aggravate existing conflicts between farmers and miners over use of the water from the marshes of the Altiplano, the high intermontane plain. In Chile, glaciers are receding at a slower rate than in its tropical neighbours. But there are worries there about the long-term impact on hydroelectric supply.

It is easier to monitor glacial melting than to remedy the problems it is likely to cause. A public debate is only just starting, led mainly by NGOs. Peru's government, faced with immediate problems of poverty and poor public services, has found it hard to focus on what seems a distant threat. However, officials have suggested that new hydroelectric schemes should be built only on rain-fed rivers to the east of the Andes.

César Portocarrero, a glacier expert with Practical Action, an NGO, argues that the first step is to encourage farmers to reduce their water use. He worries that the flow of water to Chavimochic, a large irrigation project on the north coast, could start to fall after 2020. He is also working on a plan to build small dams on mountain lakes to regulate river levels. This could work well for Macusani, because unlike the coast it enjoys a rainy season. At least such dams could help the alpacas, even if they don't attract the tourists.

SOURCE: The Economist

## **“Against the Law of the Jungle: Peru’s Amazonian Uprising”**

By Gerardo Rénigüe

*NACLA Report on the Americas* 42:1, Jan/Feb 2009, pages 5-8

BETWEEN AUGUST 9 AND 20, THOUSANDS OF Awajun, Wampis, Matsigenka, Shipibo, and other indigenous peoples of the Amazon mounted an unprecedented series of simultaneous, peaceful demonstrations against the Peruvian state. The protesters, organized under an umbrella group called the Inter-Ethnic Association for the Development of the Peruvian Amazon (AIDSESP), occupied oil and gas pumping stations and hydroelectric plants, staged marches and demonstrations, shut down navigation on rivers, and blocked strategically located bridges and highways along the eastern reaches of Peru's Amazonian basin.

Their primary demand was the withdrawal of Law 840, popularly known as the Law of the Jungle, presented to Congress for approval in late 2006 by President Alan García. The proposed legislation sought to undermine the collective property regime of both highland Andean and lowland Amazonian indigenous communities by conceding supposedly "uncultivated" lands to lumber companies, surrendering the nation's rights over natural resources to foreign investors. Other measures proposed to expand the area of forest concessions (to almost 100,000 acres for use over 40 years); facilitate the use of public waters by private irrigation projects; lower the restrictions for the introduction of transgenic seeds; ease government control over protected areas; and establish forest zones of "permanent production."

García justified this onslaught in an October 2007 editorial published in the right-wing daily *El Comercio*. He identified the communal property regime as Peru's main obstacle to development and modernization, claiming the existence of "uncultivated" land that indigenous communities "do not till" and "will not till" because they lack the know-how and financial resources. He called for the prompt privatization of these lands in order to attract "long-term high technology" investment, holding the communal-property model responsible for "the vicious circle of misery" afflicting the Amazonian region (the Amazonian regions of Amazonas and Loreto are among the country's poorest, according to a 2006 study by Peru's Cooperation Fund for Social Development). The "uneducated and poor farmers," he said, ought to be replaced with a "middle class" of knowledgeable and financially sound property owners - in his words, the only people capable of "obtaining resources, establishing markets, and creating formal jobs."

Indigenous protesters were not alone in their denunciations. The Law of the Jungle triggered a wave of protests across the country and was severely questioned by opposition legislators and constitutional scholars. By mid-February popular organizations, labor unions, citizen groups, ecologists, local businessmen, academics, local municipal authorities, opposition congressional representatives, and local politicians from the five Amazonian regions gathered in the Amazon Summit. Participants unanimously rejected García's proposed legislation and established the Permanent Forum to Defend the Amazon to coordinate actions and elaborate alternative development strategies for the region. The Summit also called the government to an open dialogue and announced an Amazonian strike for March 17-18.

In the ensuing weeks, the congressional Commission for Amazonian, Indigenous, and Afro-Peruvian Affairs tabled García's proposed law. The Peoples Ombudsman Office, on the other hand, asked the Constitutional Court to declare the law unconstitutional. With his Law of the Jungle held up in Congress, García in mid-May issued presidential decrees 1015 and 1073, resorting to special powers he received from the legislature to facilitate the implementation of the free trade agreement with the United States. These decrees overturned the internal procedures by which both Amazonian and Andean indigenous communities safeguarded the integrity of their

commonly held territories, allowing the intervention of third parties as "business partners," buyers, or mortgage holders. The decrees thereby eliminated the last legal resource available to indigenous peoples to protect their territorial integrity

In fact, the decrees were intended to foster the ongoing concessions of thousands of acres of public, indigenous, and peasant lands to private agro-industrialists started during the administration of Alejandro Toledo and continued under García. Calling the palm oil industry a "national interest," the central government superseded regional governments' oversight power on legislation involving the use of local resources.

In an indignant but firm letter to García, AIDSESEP dismissed his scheme as one "of growth without development" devised for the exclusive benefit of transnational capitalists whose investments would further deplete Amazonian territories, leaving indigenous peoples "without resources, without air, without water, and without identity." Requesting an official dialogue with the government, the group offered a counter-proposal, suggesting a strategy of sustainable development grounded in the defense of the existing ecosystems, the protection of Amazonian biodiversity, and respect for indigenous territories and knowledge. It also asked that the president not act as a "Trojan horse" for foreign interests and warned him not to "give away any territories" or to implement any measure concerning the Amazon without the consent of its inhabitants. The letter and request for dialogue were met with nine months of silence.

Together with AIDSESEP, the Peasant Confederation of Peru, the National Agrarian Confederation (CNA), and the Confederation of Peasant Communities Affected by Mining established a coalition declaring Peru's indigenous peoples in "state of emergency." In a press conference following their first meeting, Antolín Huascar, president of the CNA, announced that peasant and indigenous communities across the country would engage in marches, sit-ins, and regional mobilizations as a prelude to a countrywide indigenous strike. Scheduled for July 8-9, the strike was set to coincide with the national strike previously announced by labor and popular organizations, as well as the Amazonian strike decreed by a second Amazonian Summit held in mid-April.

Road blockades, marches, and demonstrations, particularly intense in southern Peru and the Amazon, the two regions with the largest concentration of indigenous communities, paralyzed most of the country. Gardas approval rating had already plummeted below 25%. His eager and servile embrace of the despised and ailing Washington Consensus contrasted sharply with his electoral promises to revise the free trade agreement with the United States, uphold the autonomy of the regional governments, promote a rural strategy in the Andes based on modernizing peasant production, protect the environment, and reexamine the tax breaks and fiscal privileges granted to transnational corporations by authoritarian president Alberto Fujimori and left untouched by his successor, Toledo. Oblivious to popular mobilizations and swelling criticism, García dismissed the protesters as opponents to modernization or boycotters of globalization, or as having been manipulated by "outside interests." He was only making matters worse for himself.

QUIETLY AND STEADFASTLY IN the early hours of August 9, hundreds of Matsiguengas closed down navigation in the Urubamba River. Not far away, in a simultaneous action, another group occupied two pumping stations, heliports, and installations of Pluspetrol, the corporation operating the Camisea gas deposit - the largest in the country, located in the southern region (state) of Cusco. Further north, in the other extreme of the Peruvian Amazon, more than 500 Awajun occupied and closed down the hydroelectric plant of El Muyo, while thousands rallied in the nearby provincial capital of Bagua. On the banks of the Ucayali River in the surroundings of the port of Pucallpa, indigenous protesters closed the river to navigation. In Manseriche, region of

Loreto, indigenous protesters occupied and closed down the pipeline transporting oil from the deposits in Manseriche to the coast. Vowing to maintain the blockades and occupations until the government established a direct dialogue, AIDSESEP released an 11 -point platform.

The group demanded, first and foremost, the immediate repeal of decrees 1015 and 1073 and the cancellation of other decrees threatening indigenous territorial integrity and autonomy. The platform also called for the creation of a fund for the establishment of sustainable-development projects among indigenous peoples; the evaluation of the environmental impact of extractive industries in the Amazon; the creation of a program for protecting indigenous peoples in voluntary isolation; the creation of a congressional commission to oversee the implementation of the UN Declaration of Rights of Indigenous Peoples; and the reorganization, with the rank of ministry, of the National Institute for the Development of Andean, Amazon, and Afro-Peruvian Peoples, which had been dismantled by García.

Startled by AIDSESEP's militancy and the strategic implications of its demands, the government went on the offensive, drawing on the racist and anti-Communist repertoires of oligarchic and Cold War ideologies. The police chief of Amazonas Region, Victor Castañeda, said the mobilizations' "real stimulus" was to defend the interests of narcotraffickers. Prime Minister Eduardo del Castillo in turn denounced the uprising as part of a broader "plot" led by the Nationalist Party former presidential candidate Ollanta Humala to overthrow the government. As AIDSESEP persisted in demanding a dialogue and protesters maintained their actions, the supposed intellectual authors of the mobilization multiplied rapidly: from subversive priests to radical left-wing activists to foreign NGOs to agents of presidents Hugo Chávez and Evo Morales.

A week into the protest, with negotiations stalled by the uncompromising stance of government representatives, AIDSESEP raised the stakes with another round of actions. Blockades were now extended to the key bridges and highways connecting the Amazonian region with the rest of the country. By this time the ubiquitous presence of Alberto Pizango and other members of the AIDSESEP National Council in the media and the skillful and astute work displayed by its press team gained public sympathies to indigenous demands. In response, the government declared a "state of emergency" in the four areas at the center of indigenous mobilization. Basic democratic rights were suspended, and public elected civil officials surrendered their authority to the military.

The government also increased police and military presence in the most conflictive areas. The alarmist and racially charged public declarations of cabinet members, on the other hand, failed to ignite the latent contempt and mistrust toward so-called chunches ("wild ones" in the Quechua language) harbored particularly by urban populations. Minister of the Environment Antonio Barack, commissioned by the executive as its leading negotiator with AIDSESEP, declared to the press that the hidden and "ultimate" goal of the protest was the "liberation" of indigenous territories and "independence" from the Peruvian state. Prime Minister del Castillo falsely asserted that the continued blockade of power plants and gas and oil facilities - mostly for export - would paralyze industry and throw cities into darkness.

The conflict finally reached the halls of Congress. In a unanimous vote the congressional Committee on Andean, Amazonian and Afro-Peruvian Peoples repealed García's decrees and drafted their own law. In an astute political move, AIDSESEP leaders immediately opened a dialogue with Congress. Indigenous and congressional representatives reached an agreement according to which the protesters agreed to lift their actions while the representatives would take



their draft law to the full Congress. Two days later, Congress passes Law 2440, officially annulling Garcia's decrees.

A SEVERE BLOW TO GARCÍA'S neoliberal plans, AIDSESEP's victory marked the consolidation of indigenous peoples as a pivotal actor on the Peruvian political scene. The group's forceful, sophisticated intervention also shattered the condescending attitudes harbored toward Amazonian natives by many Peruvians - including progressive intellectuals and left-wing activists. The product of more than two decades of intense organizing, the AIDSESEP's establishment as an umbrella organization for the several regional and local federations represents a turning point in the political formation and constitution of Peru's indigenous peoples as an autonomous social and political force. It also embodies the dramatic transformation experienced by Peru's popular movement during the near decade since the fall of Fujimori. In that period, indigenous peoples have displaced the labor movement - devastated by the elimination of workers' rights, neoliberal deindustrialization, and unemployment - as the central force for social transformation.

The first autonomous regional indigenous organizations above community level emerged during the 1970s among the Ashaninka, Amuesha, and Aguaruna peoples in the High Marañón Valley in northeastern Peru. Organized along ethnic lines, these earlier organizations were established to defend indigenous territories and resources against the rapid expansion of settlers, cattlemen, and lumber and oil companies. The reformist policies of the military government (1968-80), particularly its legislation recognizing indigenous communities and their territorial claims, created favorable conditions for the political mobilization and organization of Amazonian peoples.

In 1979, AIDSESEP emerged out of these experiences. The organization is led by a national council representing six regional coordinating committees spread across Peru's vast Amazonian territories. Its membership includes every one of the 64 different indigenous peoples living in 1,340 communities with a population of about 350,000, organized in turn in 57 valley and regional federations. Its strength resides in its organization from the bottom up, decision-making by consensus, strengthening of traditional knowledge, and respect and consideration for traditional apus (elders).

Unlike the traditional working class, whose political subjectivity was determined by its subordination to capital, indigenous peoples, and the new poor of the neoliberal age, have a measure of control over the production and reproduction of their living conditions, a key factor informing their anti-systemic militancy and disposition. Indigenous peoples have also displaced the onetime powerful left, fragmented by infighting, its retreat from revolutionary socialism, and embrace of mainstream electoral politics. Indigenous peoples have taken over the role of the left as the most important voice in the defense of national and public resources and national sovereignty.

Driven by principles of communality, self-esteem, and respect for nature, the indigenous movement stands as a powerful challenge to the individualism, self-interest, and exclusion that are the core values of the neoliberal, monocultural Peruvian state. The indigenous struggle has also brought to the surface the Peruvian nation-state's legacy of colonial oppression and racism. Indigenous forms of collective participation, understanding of leadership as service, and decision by consensus also challenge the top-down organization and "democratic centralism" of the traditional left. Their amalgamation of democracy and collective interest; articulation with new and old political traditions; and their simultaneous deployment of reform, insurgency, and rebellion are crucial to developing the revolutionary strategy prophetically envisioned in the

1920s by Peruvian Marxist José Carlos Mariátegui, who imagined a confluence of socialist objectives and indigenous communitarian struggles.

This emerging indigenous movement's further transformation into a more coherent anti-systemic bloc-and its demands, strategies, and world perspectives into a programmatic alternative to neoliberal capitalism-will not only entail an extraordinary and continuing organizational effort. It must also shed its connections to elements of the left that remain disdainful of indigenous knowledge and political capability.

Indigenous Amazonians rallied in the provincial capital of Bagua in early August, demanding an end to President Alan Garcia's "development" plans for the rainforest.

The proposed legislation, popularly known as the Law of the Jungle, sought to undermine the collective property regime of indigenous communities by conceding lands to lumber companies.

**Social Impacts of Climate Change in Peru:  
A district level analysis of the effects of recent and future climate change on human  
development and inequality\***

by

Lykke E. Andersen\*

Addy Suxo\*

Dorte Verner♦

October 2009

**8. Conclusions**

In this paper we first used a district level cross-section database to estimate the general relationship between climate and income in Peru. We found that the inhabitants of regions with average annual temperatures around 18-20°C are considerably better off than inhabitants in both colder and warmer regions, both in terms of income and life expectancy.

These estimated relationships were then used to simulate the effects of both past (1958-2008) and future (2008-2058) climate change. Past changes in climates were analyzed using historical data from 24 meteorological stations spread across the territory, and estimating average trends for each station. It was found that average annual temperatures have increased by about 0.15°C per decade over the last 6 decades. Although there were local variations, no systematic differences were found between the main three eco-regions. No systematic changes in precipitation were found, either.

The consequences of past warming were then simulated using the estimated cross-section models. The results indicate that initially cold regions have likely benefitted from past warming, while initially hot regions have been adversely affected by further warming. The net effect at the national level was a 1% decrease in incomes attributed to the 0.75°C warming that has taken place over the last 50 years, but zero net effect on life expectancy, as the positive and negative effects exactly cancel each other out.

Whereas temperatures over the past 50 years have shown moderate warming of about 0.75°C across the territory, future warming is projected by the IPCC to be considerably stronger, especially in the rainforest region for which IPCC models indicate a 2°C increase in average annual temperatures over the next 50 years. No systematic changes in rainfall are indicated by IPCC models for Peru.

The paper simulated the likely effects of these projected climate changes, and found again that there are both winners and losers from expected climate change in Peru, but that the negative

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effects tend to dominate. In terms of life expectancy, the currently most disadvantaged regions are projected to benefit from warming, whereas currently better off regions are projected to experience losses in life expectancy, implying that future climate change may contribute to a reduction in health inequalities between Peruvian districts.

In terms of income, future climate change is estimated to cause substantial changes in the income distribution, as more than 500 presently poor districts are projected to gain at least 5% more income due to warming, whereas another 400 poor districts are projected to lose at least 5% of income. Lima, one of the richest regions, is projected to lose about 4% if temperatures along the coast increase by another 1°C.

Some qualifications to these results are in order. First of all, it is always dangerous to make inferences about changes in time based on cross-section estimates. The results should not be interpreted as forecasts, merely simulations indicative of the likely direction and magnitude of effects.

Second, the simulations have been carried out by varying temperature, but holding all other factors constant. Holding everything else constant is of course not realistic. Education levels are likely to increase and the structure of the economy is likely to keep changing towards activities that are less sensitive to the climate. If the high growth rates experienced since 2000 (4.5% per year) continue, incomes in 2058 would be 9 times higher than now if there were no climate change, and 8.8 times higher if climate changes as projected by the IPCC models. In either case, people are considerably richer than they are now, and their ways of living may be so different, that the climate-income relationships of today are no longer relevant.

Third, people do not necessarily have to stick around as temperatures increase, as the simulations in the present paper have assumed. Internal migration could potentially reduce the costs of climate change, if people can move towards regions with more suitable climates.

Fourth, this paper compares equilibrium situations before and after climate change, but ignores transition costs. Since climate changes are expected to happen in slow motion, especially compared to the natural variation from month to month and from place to place, such transition costs are likely small, but they may include additional investments in new reservoirs and irrigation systems, as hydroelectric facilities and water supplies are affected by changes in the water flow from melting glaciers.

Finally, it should be warned that the impacts found for Peru cannot be generalized to other countries. The impacts of climate change differ from country to country depending on the spatial distribution of the population, the types of activities they are engaged in, and the particular patterns of climate change.