

## Towards a new founding pact



After the most intense and prolonged period of violence in the country's history (during which the State showed its inability to guarantee human security), a process of national reconciliation is needed. This involves establishing a new founding pact between the State and society aimed at the construction of a country which must recognise itself as multiethnic, multicultural and multilingual. This report synthesizes the conclusions of the Truth and Reconciliation Commission (CVR).<sup>1</sup>

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### The State's inability to guarantee human security

The internal armed conflict which Peru underwent between 1980 and 2000 was the most intense, widespread and prolonged in the country's history. According to the best estimate, there were 69,280 victims, of whom 79% were peasants, and 75% had Quechua or some other indigenous language as their mother tongue.

The main victims were the poor and uneducated rural populations of the Andes and the jungle, the Quechuas and Ashaninkas. Peruvians as a whole neither felt nor assumed this tragedy as their own; and the events exposed the State's inability to guarantee public order, human security or the basic rights of its citizens within a democratic framework.

### Sendero Luminoso (Shining Path)

The principal and immediate cause of the outbreak of the internal armed conflict was the decision by the Partido Comunista del Perú-Sendero Luminoso (Peruvian Communist Party-Shining Path) to undertake an "armed struggle" against the State at a time (1980) when the country was beginning a new period of democracy with free elections. Sendero Luminoso was the main perpetrator of crimes and human rights violations, and was responsible for 54% of the fatal casualties.

The group acted with extreme violence, which included torture and brutality as forms of punishment and intimidation of the population they sought to control, including their own activists. They deliberately provoked the State into overreacting, expressing their potential for genocide and feelings of superiority over indigenous peoples with slogans such as "paying the price with blood" (1982), "inducing genocide" (1985) and "the triumph of the revolution will cost a million dead" (1988). They used educational institutions as centres for spreading their message and for recruiting minority groups of young people.

Sendero Luminoso considered peasants as a mass that had to be subjugated to the will of the Party, so individual dissent was punished with murder and selective liquidation, and collective dissent with massacre and the destruction of entire communities. This movement, and the counter-revolutionary response it provoked, revived and militarised old conflicts within and between communities. Lima and other cities were the scene of sabotage, selective assassinations, organised strikes and urban terrorism in the form of car bombs.

### The MRTA

The Movimiento Revolucionario Túpac Amaru, MRTA (Tupac Amaru Revolutionary Movement) began its armed struggle against the State in 1984, and was eventually responsible for 1.5% of all fatalities. The MRTA characteristically took responsibility for its actions, its members wore distinctive badges to differentiate themselves from the civilian population, it refrained from attacking unarmed civilians, and on some occasions it showed signs of being open to negotiations. On the other hand, the group did not hesitate to execute dissidents within its own ranks. The MRTA attempted to create a climate that would lead the population to accept the idea that violence was a legitimate political measure, but this eventually worked in favour of the militaristic counter-revolutionary policies of President Alberto Fujimori's Government.

### The police and the armed forces

More than a thousand members of the police force lost their lives or were maimed during this period. They were unable to oppose their enemy effectively due to their inadequate training in counter-revolutionary measures and deficient logistic support.

In 1982 the Government entrusted the armed forces with the task of combating the subversive groups. They, too, eventually suffered more than a thousand fatal casualties. At first, their strategy was indiscriminate repression, and, although later on they targeted their opponent more selectively, there were occasions when they engaged in the generalised and systematic violation of human rights. Like the police, their effectiveness was compromised by summary executions, forced disappearances, torture, as well as cruel treatment, particularly against women. Senior officers and their subordinates were involved in

these violations of human rights, either directly or by allowing them to take place.

In 1989, the armed forces changed their strategy from trying to recapture territory to eliminating the People's Committees of Sendero Luminoso. They attempted to isolate Sendero Luminoso's military elements and win over the population by committing fewer violations of human rights. In the face of this strategy, Sendero Luminoso opted for unrestrained violence, not only against the Quechua and Ashaninka people but also in urban areas. In response to this offensive, numerous Self Defence Committees were formed. These were drawn from the poorest sectors of the peasantry, and they gave Sendero Luminoso their first strategic defeat in rural areas.

After their victory over Sendero Luminoso the armed forces justified Fujimori's 1992 coup and the Government's truce with drug traffickers, and they fell under the control of the highest ranking officers, who had made an alliance with the dictatorial government. The armed forces then started taking action outside the military sphere. The National Defence System was changed, as well as the National Intelligence Service Law and the Military Situation Law. These new dispositions violated guarantees of due process, instituting "faceless" tribunals and judges, and new criminal offences like "aggravated terrorism" and "treason against the nation" came into force.

This delegation of power by the civil government to the armed forces was met with tacit acceptance from a sizeable portion of Peruvian society, particularly the well-educated urban classes who benefited from the State's services and lived in areas far removed from the centre of the conflict.

### Fujimori's role

In 1990, at the very start of his mandate, Alberto Fujimori<sup>2</sup> already showed signs of contempt for democracy. He handed the economic problems of the country over to technocrats, and he himself took control of anti-revolutionary strategy. He recruited

1 Comisión de la Verdad y la Reconciliación. [www.cverdad.org.pe](http://www.cverdad.org.pe)

2 Alberto Fujimori won the 1989 general elections with 56.4% of the vote. In April 1992 he led a coup claiming that Parliament was corrupt and inoperative. Re-elected by an overwhelming majority in April 1995 he amnestied members of the army and police convicted of human rights violations. In the April 2000 elections, in spite of constitutional impediments, Fujimori again ran for office. Finally, in the midst of corruption scandals, he fled to Japan and resigned in November 2000.

agents from military intelligence, the most emblematic of whom was Vladimiro Montesinos. The National Intelligence Service was strengthened, and the loyalty of the military leadership was assured.

In 1992 the emphasis was shifted to the selective elimination of subversive groups, and the "Colina" Group death squad appeared on the scene, carrying out murders, forced disappearances and massacres. Responsibility for this group's actions falls on Fujimori and Montesinos.

In September 1992, the top leaders of Sendero Luminoso and the MRTA were captured, and the Government used this victory to its advantage in the elections.

In the latter years of Fujimori's time in office, the internal armed conflict was manipulated so as to keep the President in power. The conflict lasted from 1980 to 1992, but the Government maintained a logic of war throughout Fujimori's mandate, until 2000. Peru sank into a new economic crisis, and the country showed signs of corruption, moral decay, a weakening of the social and institutional fabric, and a profound lack of confidence in public institutions.

### **The judiciary**

The abdication of democratic authority included the judiciary. Judicial authorities set guilty people free and condemned the innocent; their officials did not fulfil their role of guaranteeing the rights of civilian detainees, and members of the armed forces who were accused of serious crimes were not brought to justice. In all legal disputes the ruling automatically went in favour of the military, and injustice went unpunished. Between 1980 and 1992 there was no clear standard definition of the crime of terrorism, and the prosecution process was murky.

In 1992, the executive branch started to interfere in the judiciary. Magistrates were dismissed en masse, provisional appointments were made, organisations outside the structure of the judicial system were created, and the Constitutional Tribunal ceased to function. In the new legislation, terrorism was over-criminalised, and it became normal practice to declare recourse to habeas corpus inoperative. All this contributed to a situation in which arrest would lead to torture. There were arbitrary executions and forced disappearances. People in custody were not guaranteed impartial or fair treatment, many innocent people were given long sentences, and all constitutional guarantees were violated. After a time, the State was compelled to grant new trials, but these were based on scant evidence. This discredited the system so much that it rebounded to the benefit of the real terrorists on both sides of the conflict - Sendero Luminoso and the groups linked to it, as well as the murder squads who had gone after union and opposition leaders with the support the Government itself.

There was also violent aggression from subversive groups against union leaders, businessmen and the staff of private companies. The objective of Sendero Luminoso was to destroy the unions, whereas the MRTA sought to make the unions work for their own ends.

### **The churches and human rights activists**

Both the Catholic Church and the evangelical churches protected the population against crimes and violations of human rights. From early on, with few exceptions, the Catholic Church condemned violations of human rights committed by the State.

During the conflict dozens of civil society associations and NGOs organised the National Human Rights Co-ordination Committee, which became an ethical reference and a vehicle that allowed victims to demand truth and justice.

Brave investigative work was done by journalists, indispensable for identifying the people responsible for the atrocities. Many journalists risked their lives, and in some cases they lost them. From early 1980 the media condemned the violence, with each organisation giving the news a slant in line with its own ideological position. However, they did not uniformly condemn the violations of human rights and certainly not those committed by the State, and their interpretation was ambiguous or biased. The treatment and the presentation of the acts of violence were crude, little respect was shown for the victims, generating an overall lack of sensitivity toward the subject. In some cases the logic of business took priority, leading to gutter journalism which, by the end of 1990, went hand in hand with mega-corruption and the buying of the media.

### **Displaced people**

The armed violence drove hundreds of thousands of Peruvians into poverty and uprooted them from the areas where they lived. This led to forced urbanisation, and there was a historic regression in the pattern of occupation of the Andean territory which restricted possible sustainable human development.

The people who were displaced lost their goods and their social networks, and they were stigmatised and discriminated against in the places they moved to. A whole generation of children and young people had their chances of development stunted. These people deserve preferential attention from the State.

### **Repair the damage, punish the perpetrators, do justice**

In the 1980s and 1990s, people could claim that they were to a certain extent ignorant of what was going on, or that they did not understand it, but today that stance is no longer possible. In order to live in a civilised way, in peace and democracy it is essential to carry out institutional reforms to bring about the rule of law and prevent violence. This will be part of an ethical and political process to compensate and restore the dignity of the victims, and it is an indispensable element in the process of national reconciliation. The situation is doubly aggravated by the fact that the victims belong to the least-privileged sectors in the country.

An important component in this process of reparation is justice. This means compensating victims for the damage suffered, punishing the perpetrators of the crimes, and putting an end to impu-

nity. For example, one aspect of justice and symbolic reparation is knowing where the murdered victims are buried so that they can be identified and so that Peruvians can mourn their fellow countrymen and women who disappeared. The National Registry of Burial Sites serves this function.

The general aim of the Integral Reparations Programme is to "Make reparations and compensate for the violation of human rights and for the social, moral and material loss or damage suffered by the victims as a result of the internal armed conflict". The victims and beneficiaries are defined as "all those persons or groups of persons, who, owing to or as a consequence of the internal armed conflict which the country went through between 1980 and 2000, have suffered from acts or omissions which violate the norms of the international law of human rights". The following are considered violations: forced disappearance, kidnapping, extrajudicial execution, murder, geographical displacement, arbitrary detention, the violation of due process, forced recruitment, torture, rape, and the wounds, injuries or death resulting from attacks in violation of international humanitarian law. A "beneficiary" is a victim who will receive some kind of symbolic and/or material, individual and/or collective reparation.

The Integral Reparations Plan combines individual and collective, symbolic and material forms of indemnification: a) redeeming the memory of the victims and bestowing dignity on them, b) providing education and mental health assistance, c) making individual and collective economic reparation (programmes for institutional reconstruction, communal development, basic services and generation of income).

The great aim of national reconciliation is that all Peruvians achieve full citizenship, which means establishing a new founding pact between the State and Peruvian society, and among the members of that society. Reconciliation should take place at personal and family level, in organisations within society, and in the reformulation of the relations between the State and society as a whole. All this has to be oriented towards the construction of a country which must recognise itself as multiethnic, multicultural and multilingual. ■