



UPDATE

Bulletin Of the Peru Support Group
No. 128 June - July 2008

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

García Two Years On: The Neo-liberal Law of the Jungle?

In the very same week, Peru won 'investment grade' status and angry crowds burnt down the regional government building in Madre de Dios. Two sides of the same coin that is Peru: the fastest growth of any major country in Latin America and a rising tide of popular discontent, particularly in areas outside Lima. Two years into his second government, President Alan García may well be wondering how to convert growth into popularity.

In the first quarter of this year, Gross Domestic Product grew by over 10%

Two years into his second government, President Alan García may well be wondering how to convert growth into popularity

on an annualised basis. Propelled by investment in the mining sector and high world minerals prices, growth is spilling over into other sectors, such as construction and manufacture, as demand in the economy increases. While construction activity is obvious on every block in Lima's richer neighbourhoods, it is also in evidence in some of the poorer ones.

But trickle down does not trickle uphill. The economic boom that Lima is enjoying is largely absent elsewhere,

particularly in the highlands. The government is trying to stimulate public investment in the interior of the country, but up to now has been hobbled by the operation of the so-called SNIP (National System of Public Investment), a device which gives the Minister of Economy and Finance control over decisions on public investment projects and the disbursement of project finance.

The extent of popular dissatisfaction is evident in García's declining approval ratings; these now put him on around 30%, half those when he took office two years ago. There have been several instances of protest on the streets in recent weeks, culminating in a one-day strike of the CGTP in mid-July. The strike coincided with mobilisations throughout the highlands and in the jungle.

García made it clear two years ago that his second government would not be a repeat of the first. Abandoning all pretence of heterodoxy, the new government entered into alliance with the business elite by deepening the neoliberal policies initiated by Alberto Fujimori in the 1990s and pursued by his immediate predecessors.

As if to rebut all criticism of his government's economic policies, on July 14th García appointed a new finance minister to replace the technocratic

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Alan García remains committed to his plans to regenerate the Peruvian economy by promoting private, particularly foreign investment

Luis Carranza. In the search for a replacement he went straight to the IMF in Washington to select Luis Valdivieso, a Peruvian who has worked there for many years on the Asia desk. By coincidence, Valdivieso was sworn in on the very day that Peru was conferred 'investment grade' by Standard & Poor's, the international investment risk evaluators.

Despite the country's buoyant growth rates, the new minister faces a number of problems. First and foremost is the accelerating rate of inflation. Whether or not this reflects just the rising cost of imported food and energy, many people are beginning to see their incomes rise more slowly than prices. To stem inflation, the authorities are having to rein in credit by raising interest rates. This will hit those who have borrowed hand-over-fist in the last couple of years to buy new houses, cars and other consumer items.

At the same time, imports are rising faster than exports, and in the first quarter Peru had a deficit on its current account for the first time for several years. Also, aware of the poor use to which public spending has been put, the new minister may wish to reduce public spending. In sum, Valdivieso may well reach for the lever to slam on the brakes.

Come what may, Alan García remains committed to his plans to regenerate the Peruvian economy by promoting private, particularly foreign investment. He mapped out his thinking last year in a newspaper article, entitled the 'dog in the manger syndrome' (*El síndrome del perro*

del hortelano). [See PSG Update, No 124]. His idea includes reforming laws to enable investors to buy up large-scale property titles in the Amazon and to whittle down the property rights of peasant communities in the Andes to encourage mining and other activities.

Using presidential decrees to approve the so-called 'Law of the Jungle' was what ignited the protests in Madre de Dios. There has also been opposition in Ucayali and Loreto. García had to send off his new environment minister, Antonio Brack, as envoy to calm the passions aroused. Apart from anything, the development of the Amazon for forestry and other uses has massive environmental implications.

At the same time, the executive has announced decrees that will undercut the rights of peasant communities in defending their lands against outsiders. Using facilities conceded to him by the Congress to make Peruvian law conform to the Free Trade Agreement (FTA) with the United States, García proceeded to sign a decree that reduces the margin by which communities agree the sale of land to third parties.

These controversial policies are gauged to increase the government's unpopularity in those parts of the country where its level of support is already meagre. How this expresses itself politically, is difficult to foresee. But Standard & Poor's may find that it has not given enough thought to political risk in awarding Peru 'investment grade'.

News: President of Constitutional Tribunal Resigns

César Landa Arroyo unexpectedly resigned from his position as President of Peru's Constitutional Tribunal. He was replaced by APRA's Carlos Mesía Ramírez, who told Peruvian newspaper *La República* that he would remain in the position until December, which is when Landa Arroyo would normally have left office. He also revealed that he would soon deal with an appeal lodged by the Institute of Legal Defence (IDL), a

Peruvian NGO which defends and promotes human rights. Mesía claims that his predecessor had always been "very close to IDL". The appeal concerns the trial of one of the marines who was suspected of being involved in the military repression and subsequent killing that occurred during a riot at the *El Frontón* prison in 1986, during President Alan García's first term in office.

Mesía claims that his predecessor had always been "very close to IDL"

"Accused" Give Statements to Public Prosecutor in Río Blanco Case

Piura's Public Prosecutor has begun hearings in the case of 35 environmental and human rights activists and local politicians from the region who are accused of terrorism, kidnapping and extortion by the local civic association ACFUCCSC (*Asociación Civil Frente de Unidad de la Comunidad Campesina de Segunda y Cajas*). The accused helped organise a local referendum in September 2007 in which 90% of voters expressed their opposition to the proposed mining activity of Minera Río Blanco Copper (formerly Minera Majaz, and part of Monterrico Metals) in the region. The first of the accused to give their statements was Javier Jahncke, a human rights defender and lawyer for non-governmental Ecumenical Foundation for Development and Peace (FEDEPAZ) and coordinator of a technical support team that advises communities affected by the Río Blanco mining project. Carlos Martínez, mayor of San Ignacio (Cajamarca) and president of the Front for the Sustainable Development of the Northern Border, made up of authorities and representatives of the communities affected by Majaz, also made a statement.

The accused will give statements over the course of a month so that the prosecutor can assess whether or not to pursue the criminal charges.

Mine Pollution Emergency

The government has declared a state of emergency at the Coricancha mine, approximately 90km east of Lima. It has also asked Canadian company Gold Hawk Resources, who owns the mine, to cease operations whilst the situation is resolved. The government feared that mining by-products such as arsenic, lead and cadmium from Coricancha's tailings dam could pollute the Rimac river, the main water supply for the capital. The dam has been weakened by seismic activity, amongst other factors, and subterranean water filtration and will now be relocated. The company says that the tailings could be removed within 16 to 20 months and that it is looking to develop a long term tailings handling solution.

Fujimori Trial Update

Alberto Fujimori and his former 'right-hand man' Vladimiro Montesinos came face-to face in court on June 30th, eight years after they both fled the country on corruption and human rights abuse charges. The former intelligence chief was called as a witness in the ongoing trial of Fujimori.

As predicted by Carlos Rivera, lawyer for the

victims' families in the trial related to the human rights violations in the *Barrios Altos* (1991) and *La Cantuta* (1992) killings, Montesinos defended Fujimori stating that "President Fujimori has no responsibility for the matters in this case."

Retired General Nicolás Hermoza Ríos recently testified in the trial. He admitted that excesses in the war against the Shining Path rebels had occurred, but maintained that this could not be labelled systematic political violence. He alleged that his commando had always defended human rights but then refused to explain why he had concealed the fact that intelligence agents had killed nine students and one professor at *La Cantuta* University in 1992. He stated that this had been a personal decision and he had not been asked to do so, either by Montesinos or by Fujimori.

La Cantuta & Calle Tarata Anniversaries

Meanwhile, relatives of the ten victims of the *La Cantuta* massacre (students Bertila Lozano Torres, Dora Oyague Fierro, Luis Enrique Ortiz Perea, Armando Richard Amaro Córdor, Robert Édgar Teodoro Espinoza, Heráclides Pablo Meza, Felipe Flores Chipana, Marcelino Rosales Cárdenas, Juan Gabriel Mariños Figueroa, and Professor Hugo Muñoz Sánchez) have commemorated the 16th anniversary of the deaths. On July 18th, six small coffins containing the victims' remains arrived at *La Cantuta* University where their families held a wake. One day later they were buried in Lima. The bodies had been exhumed in 2007, but forensics experts have only been able to identify five of the victims.

This month also marks the 16th anniversary of the car bombing carried out by the Shining Path in *Calle Tarata* in Miraflores, Lima (July 16th 1992). The attack, which directly targeted Lima's middle-classes, left 25 people dead and some 155 injured. An exhibition in memory of the Tarata bombing has been set up: <http://micromuseo.org.pe/rutas/index.html>

Increasing Coca/Cocaine Production

Peru is the world's second largest coca/cocaine producer for the ninth consecutive year according to the UN office on Drugs and Crime (UNODC). A 2007 coca survey in the Andean region shows that 181,600 hectares of land are being used to cultivate coca in Colombia, Peru and Bolivia. This is a 16% increase compared to the previous year and the highest level since 2001. However, production in Peru only rose by 4% and the biggest increase took place in Colombia. Although cultivation of coca grew considerably, cocaine production in the Andean region remained almost unchanged in 2007, rising from 984 to 994 tonnes.

The accused helped organise a local referendum in September 2007 in which 90% of voters expressed their opposition to the proposed mining activity of Minera Río Blanco Copper

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National Context & the Avalanche of Legislative Decrees

The Peruvian government's approval of over a hundred legislative decrees in recent months has taken place under the context of the special authority that Congress granted Alan García in order to facilitate the implementation of the Free Trade Agreement (FTA) with the US - that authority was for a period of 180 days expiring on June 30th. This package contains at least forty decrees concerning issues related to peasant and native communities and natural resources.

According to the analysis of specialist bodies such as the Peruvian human rights ombudsman, several of these decrees exceed this special authority. One example of this is decree 1015 which introduced substantial changes to the decision-making process for community property such that the sale or leasing of communal lands no longer requires approval by two-thirds of qualified community members, but just a simple majority of those members of the community attending an assembly meeting. One month later this was modified by decree 1073. This stipulates that these community members must have been '*posesionarios*' (i.e. have occupied and used land) during the preceding year.

To understand the significance of this legislation, it should be read in conjunction with other decrees that have been issued recently. One of the most important of these is Decree 1064 which repeals the 'Land Law' (law 26505). This repeal has the effect that 'prior agreement' of the landowner regarding how property will be used (for instance, for mining) is no longer necessary. Prior to Decree 1064, the legislation established that in the absence of prior agreement, the State could oblige land use modification, as long as it could be shown that prior forms of land use could also continue unencumbered. Legislative decree 1064, however, establishes that "lands for agricultural use are subject to the following land use modifications (...) installations for mining exploration and exploitation...". As companies no longer need prior agreement from communities for such modifications, they could develop

activities by simply gaining approval of the Ministry for Energy and Mines. Peasant communities, or other owners, would therefore no longer decide the fate of their lands but instead they would have to await the decision of the State based on the companies' requests.

Imposition, Debate and Proposals

Beyond these specific problems related to the content of the new decrees, there are more basic issues at stake. The Government states that it is using the decrees to promote investment for development in rural communities, but it has made no comment on issues that are still to be resolved in those very same communities. One of the most urgent of these is the state of land ownership. It is the legal duty of the State to complete the process of formal community land titling, respecting the community's decision on the way this is carried out. However, the State has not fulfilled this task even though it is essential if there is ever to be a functioning rural land market.

Through this set of reforms, the State is forging ahead in promoting a form of privatisation driven by minority economic interests. Meanwhile the Executive is exceeding the limits of its special authority and approving norms which change decision-making processes regarding natural resources, without consulting the communities who own the land where these resources are found. Though the García government may be operating through legal channels, it is doing so in a way that gives its actions little legitimacy.

In this sense, the issues at stake relate not only to the specific implications of the decrees issued by the Government, but also to the manner in which the Government is trying to set conditions and impose its vision regarding the use of national resources; resources which the Nation has entrusted to the State to manage on its behalf in the best possible way for the benefit of all. For some commentators, this form of government action is little short of scandalous. The "scandal" here is that the government is effectively denying the existence of the different ways in which

rural populations occupy space, appropriate territory and use resources - ways which differ greatly from the logic of large scale property and resources exploitation. The Government blames this diversity for curbing the country's growth, instead of discussing what its own role should be to ensure that income from large-scale investments are transformed into equitable development. Ultimately its actions are contradictory: it promotes investment but not tax reform; it argues that regional governments already have enough income from the mining *canon* (1) but does nothing to strengthen their management capacities; and it ends up accusing the regional governments of inefficiency. The final effect of all this is to generate yet more tension between the regions and Lima. And just to complete the picture, there has been a continued tendency to violate citizens' rights, a failure to enact international treaties even when they have been ratified by the Peruvian State - such as the International Labour Organisation's (ILO) Convention 169 - and a willingness to act with levels of intolerance and authoritarianism that are ultimately unsustainable.

This situation demands an articulated response. In the case of the peasant communities, although it is important to criticize the norms, this on its own isn't enough. Problems within the communities themselves also have to be acknowledged and addressed: problems such as out-of-date electoral registers, property rights that have not been registered and internal resource conflicts. What is really needed is a proposal which shows how communities can contribute to their own development as well as to rural development in general. Just as important is that this proposal demonstrates that, under the right conditions, communities are neither an obstacle to investment nor enemies of economic development.

Such a proposal should lay out new rules of the game which would allow communities to be stakeholders and shareholders in processes of rural investment on a par with the business sector and large scale industry. For instance, in the mining and hydrocarbons sectors, this could mean

mechanisms that would not require communities to sell their lands but instead enter into associative relationships with businesses within an institutional framework which would guarantee their rights - a setting that would in all likelihood be less conflictive for these businesses.

Proposals similar to these have already been made, but it has proven difficult to foster public debate on issues which would imply substantial changes to the actual model. One example is that of San Lucas de Colán, a peasant community in Piura whose formal association with the oil company operating on its lands gives it a direct share in the company's profits. While there are no such examples in the Peruvian mining sector, proposals for similar arrangements have been made. For instance, in Michiquillay in Cajamarca, a sector of the community has questioned the terms of the contract signed with Anglo American, and has instead proposed that community members either become shareholders of the mining project or receive a percentage of the profits. Proposals such as these show us that the challenge is to rethink the terms of the relationship between communities, business and the State in the process of development.

By María Luisa Burneo

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(1) Mining *canon* - a transfer from the State to local and regional governments of a percentage of tax revenue generated by the mining sector.

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Source: www.bbc.com

The armed forces entered Ayacucho in 1983, with the full support of President Fernando Belaúnde's government (1980-1985), taking military and political control over the region, and applying indiscriminate repression, assuming that most of the population was involved with the Shining Path (SL) guerrilla movement. Peruvian Army Officers posted to rural areas assumed that all peasants who left their villages or towns to find refuge in the hills were allies of the guerrilla. Consequently, Ayacucho suffered the highest mortality rates during the deadliest years of Peru's internal armed conflict (between 1983 and 1984). A common denominator amongst these communities of the high Andes is that they were Quechua-speaking, rural, and poor.

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

The Facts

Around 1983, SL established authoritarian control over the communities in the high Andes region of Huanta. In Putis, the guerrilla executed local authority leaders, accusing them of trying to confront them through the *Montoneras* (self-defence groups with basic weapons). This led community members to flee, forcing them to live far from the community to avoid contact with the military. SL's authoritarian strategy had no regard for the extremely hard living conditions they imposed on the peasant families.

In November 1984, the Peruvian Army set up a military base in Putis, in turn demanding that peasants dispersed in high Andean areas such as Rodeo, Rumichaca, Huancas, Vizacatanpata Orccohuasi, Cayramayo should re-settle in Putis where they could register with the army as a requirement to be acknowledged as "innocent". According to the findings of Peru's Truth and Reconciliation Commission (TRC) in December that year 123 men and women of different ages, including 19 children, were killed by the counterinsurgency forces. However, new evidence suggests that those numbers may be even higher.

A common denominator amongst these communities of the high Andes is that they were Quechua-speaking, rural, and poor



Putis community members presenting their demands to the regional authorities, July 14th 2008

The Ethical Imperative of Reparation

The 2008 Findings

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

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

To date, five mass graves have been exhumed in the vicinity of Putis' former school and church. All remains have been examined in the Institute of Legal Medicine's forensic research laboratory in Huamanga. However, a sixth grave has just been found and residents say that there are eight more in the area.

The Need for Justice and Reparation to Restore Trust

On July 14th, regional authorities met with the relatives of the victims found in Putis, many of whom still live in neighbouring communities. But what are they asking for?

- Recognition, inclusion, and justice in the form of:

Reparation for all harm inflicted on them: reconstruction of their houses; access to basic services of education, health and communication; and support with agricultural projects. Families who returned in 2002 live in precarious conditions, their houses are practically in ruins, they have no livestock, agricultural plots are no larger than a quarter of a hectare, and there are no schools or health services in the area.

Reparation as a just punishment for those responsible for the executions, to restore



Source: *La República*

trust in the state and move towards reconciliation. Fear is still present, for example, relatives of the victims will not report to the Reparation Council working group that is trying to identify them.

- What is the state offering these communities?

The Cabinet is offering collective reparations of up to US\$30,000 (£15,000) per selected community, according to official rating criteria for affected communities.

The provincial municipality has a Reparations Plan involving a substantial contribution from the national and regional governments to provide health and education services, as well as fostering productive investments.

The District Municipality of Santillana has drawn up a technical project for the constitution of the Centro Poblado Menor de Putis, an administrative category that would group together seven communities governed from Putis and which would provide basic public services.

The events in Putis are symbolic of extra-judicial killings that took place in other parts of the country throughout the period of Peru's internal armed conflict. They were part of a systematic practice of human rights violations. By the end of its mandate in 2003, the TRC registered 4,644 mass graves in the country, having carried out three exhumations and 2,200 preliminary investigations. As the final report of the TRC states: "An ethically healthy and politically viable country cannot be built on the foundations of impunity".

*By José Coronel Aguirre, Antropologist
Ayacucho, Peru*

The events in Putis are symbolic of extra-judicial killings that took place in other parts of the country throughout the period of Peru's internal armed conflict

The Peru Support Group

Child Poverty and Lack of Opportunities in Peru: Does Volunteering Help?

Friday 15th August 2008

Time: 2.30pm-5pm

Venue:

Institute for the Study of the Americas (ISA)
Seminar Room 12, ISA, 35 Tavistock Square,
London WC1H 9HA

Confirmed Speakers:

Andrés Gómez de la Torre

(South America Programme, Manager,
ChildHope)

Peter & Juany Murphy

(Co-directors of *Otra Cosa*)

Lily Anderson

(documentary maker)

To register, please email:

**info@perusupportgroup.org.uk or
call 0207 354 9825**



PSG Members' News

When Peru Support Group members Juany and Peter Murphy returned to Juany's native Peru three years ago, they didn't expect to be running a not-for-profit organisation. However, on their arrival in Huanchaco, near Trujillo in northern Peru they became involved in the *Otra Cosa* Volunteer Agency, which offers a variety of community-based and run projects, primarily working with children.

Juany helps with the 'CEP' school, one of *Otra Cosa's* educational projects. This is a community based school which was created with the support of a local priest, Father Victor Hugo, to help children in the Ramon Castilla shanty town near Trujillo. The school relies entirely on the work and contributions of volunteers, as it receives no government funding.

Peter Murphy had little experience in voluntary or community work but having settled in Peru, he started to teach English at Huanchaco's library. The objective of this 'Library project' was to give the primary school children of low income local families the opportunity to learn basic English. He developed a syllabus and recruited English speaking volunteers through *Otra Cosa* and then trained and guided them to give the classes.

The agency has grown significantly with a new web-site, more international volunteers helping some 20 different community projects, not just locally but also in other departments of Peru. *Otra Cosa* is now providing over 15,000 hours of volunteer help each year and is starting to help with fund raising too.

For more information: www.otracosa.org



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The Peru Support Group welcomes comments and suggestions from members concerning the Update. Articles or letters for publications are also gratefully received, although publication cannot be guaranteed. Opinions expressed in articles in the Update are those of the author and may not necessarily reflect the views or policies of the Peru Support Group.