

1994

Commission Evaluates Administration of Justice in Peru

Antonio Maldonado

American University Washington College of Law

Diego Rodriguez

American University Washington College of Law

Follow this and additional works at: <https://digitalcommons.wcl.american.edu/hrbrief>



Part of the [Human Rights Law Commons](#), and the [International Law Commons](#)

Recommended Citation

Maldonado, Antonio, and Diego Rodriguez. "Commission Evaluates Administration of Justice in Peru." Human Rights Brief 1, no. 1 (1994): 1, 9.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized editor of Digital Commons @ American University Washington College of Law. For more information, please contact kclay@wcl.american.edu.



HUMAN RIGHTS

The Center for Human Rights and Humanitarian Law

BRIEF

Washington College of Law • The American University

Volume 1, Number 1 • Spring 1994

Suriname Faces Past Human Rights Violations

by Claudia Martin and Françoise Roth

As in most Latin American countries, the newly elected Surinamese government is confronted with past human rights violations perpetrated under the previous military regime.

While, to date, it has failed to bring human rights abusers to justice, Suriname was recently the subject of a decision by the Inter-American Court of Human Rights ("the Court"). The *Aloeboetoe et al.* case, rendered on September 10, 1993, determined the compensation to be paid to the survivors of seven Saramaca Maroon men killed by the military in 1987.

The troubled political situation experienced by this former Dutch colony following its independence in 1975 ended, in May 1991, with the inauguration of a democratically elected President. The election took place five months after a December 1990 army putsch overthrew what was the first democratically elected government in the South American republic since 1980. Nevertheless, as recently reported by the U.S. State Department, "the Government took no action to investigate past human rights violations."

During the last years of Dersie Bouterse's dictatorship, former army sergeant Ronny Brunswijk launched an uprising in the eastern and southeastern provinces to overthrow the military government. His guerilla group, known as the "Jungle Commando," was comprised mostly of Maroons (descendants of escaped African slaves who fled into the interior between the 16th and 18th centuries to avoid recapture). In the final years of conflict at least 200 people, mostly civilians, were killed, over 10,000 refugees were driven into neighboring French Guiana, and the medical and educational infrastructure of the region were destroyed.

The events that gave rise to the *Aloeboetoe et al.* case took place on December 31, 1987 during this period of turmoil when a group of soldiers attacked unarmed civilian Maroons in a counterinsurgency operation in Atjoni in the north of Suriname. Seven of the Maroons were dragged, blindfolded and driven off in a military vehicle on suspicion of belonging to the "Jungle Commando." A few kilometers

continued on page 10

Commission Evaluates Administration of Justice in Peru

by Antonio Maldonado and Diego Rodríguez

The United States and Peru recently reached an unprecedented agreement permitting an independent commission of human rights experts to examine the administration of justice in Peru following the April 5, 1992, auto-coup by Peruvian president Alberto Fujimori. In an effort to concentrate power in the executive branch, Fujimori dismissed the Peruvian congress, the majority of judges and public prosecutors, and the Tribunal de Garantías Constitucionales (Tribunal of Constitutional Guarantees). The United States responded to the coup d'état by freezing most U.S. aid to Peru. The agreement worked out by key congressional leaders and the Clinton administration calls for the restoration of aid to Peru if, inter alia, it implements the commission recommendations.

"This has never been done before," says American University professor Robert Goldman, who was selected to chair the commission. "Other people in Congress are looking at the commission

continued on page 9

See pages 6-7 for
Point/Counterpoint on the
War Crimes Tribunal

INSIDE:

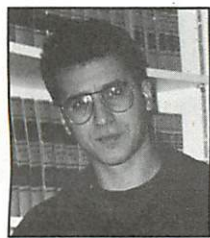
Message from the Co-Directors	Page 2
Rights of People with Mental Disabilities	Page 3
World Bank Inspection Panel	Page 4

ALUMNI PROFILE

LL.M. Alumni Works for Arab Rights in Israel

LL.M. '93 student Tawfiq Jabareem, a Palestinian from Israel, recently returned to the Middle East, where he is now working with the Association of Forty, a human rights organization. Established in 1988, it works to gain official Israeli recognition for the more than 100 Arab villages located within Israel proper.

Jabareem contends that Israel refuses to acknowledge the villages in order to maintain or increase control of land owned by Arabs. In 1965 the Israeli government passed building laws obligating builders to obtain permits from designated authorities. These permits, Jabareem argues, are subject to numerous restrictions and resulted in more



Tawfiq Jabareem

than 50,000 people, particularly Israeli-Arabs, being deprived of the right to develop their lands or to enjoy such basic services as water, electricity, roads, schools, and health facilities.

In 1981, the building laws were amended to prevent homes that had been built without the requisite permits from acquiring services. According to Jabareem, Israel uses this deprivation of services as a means to further its official state policy of concentrating Arabs in designated regions and forcing village inhabitants to abandon their homes and lands. "There is no doubt that the Israeli policy towards the unrecognized villages is in violation of the Universal Declaration of Human Rights" says Jabareem. Under an alternative plan designed by the Jabareem and the association, most villages would be annexed to nearby towns in order to be eligible for basic services, while the remaining villages would be

granted recognition.

Jabareem describes as "fantastic" the time he spent as an LL.M. student at the Washington College of Law focusing on the human rights curriculum. "It gave me a lot to think about, of how to address the problems of Arab villages in Israel and how to deal with basic [Arab] rights," Jabareem says. "I am planning to use my [WCL] experience at an upcoming human rights conference in Nazareth [Israel] which will deal with Arab rights in Israel."

In addition to working with the Association of Forty, Jabareem's projects include petitioning the High Court of Israel to prevent an Israeli Kibbutz from closing hundreds of acres of grazing land used by Arab Bedouins. Jabareem also has successfully argued for the repeal of an administrative order issued by the Israeli authorities to demolish an Arab couple's home. 🌐

Peru, continued from page 1

as a possible model to be used in other cases."

Goldman and the other three commission members—former Argentine Minister of Justice Leon Carlos Arslanian, Italian congressman Fernando Imposimato, and head of the Foreign Criminal Jurisdiction Section of the U.S. Navy's Judge Advocate General's Office, José Raffucci—visited Peru for three weeks in September and December 1993. They met with high government officials of Peru, as well as with other independent sources, such as the Colegio de Abogados de Lima (Bar Association) and the Coordinadora Nacional de Derechos Humanos (National Coordination of Human Rights) in order to form their recommendations.

Fujimori claimed that the concentration of powers within the presidency was necessary in order to rid the government of corruption and strengthen efforts to combat violent opposition groups. Peru's most powerful dissident factions, Sendero Luminoso (Shining Path), and the Movimiento Revolucionario Tupac Amaru (MRTA), have terrorized the Peruvian people for many years with

bombings and assassinations, transforming Peru into possibly the only country in Latin America involved in a non-international armed conflict.

Since the April 1992 coup, Fujimori has attained a level of popularity never before achieved by any Peruvian leader in a time of internal conflict. Known as the "Fujimori Phenomena," his popularity has been achieved despite wide-spread human rights abuses, for example, the creation of special civil and military courts staffed by "faceless" judges and prosecutors.

According to the Inter-American Commission on Human Rights and virtually all human rights groups, the military's efforts to suppress Sendero Luminoso and MRTA have resulted in egregious violations of human rights. These include the imprisonment of innocent persons, summary judgments, forced disappearances, tortures, extrajudicial executions, and arbitrary detentions within emergency zones under political control of the military. About 500,000 persons have been displaced from the emergency zones since 1985.

Fujimori has increased national

efforts to suppress the insurgent movements by creating new crimes, including the crime of treason as an aggravated form of terrorism, for which civilians can be tried in military courts. He also has increased the penalties for these crimes to include the death penalty, previously only authorized in limited circumstances. The Commission of Human Rights recently requested an advisory opinion from the Inter-American Court on Peru's expanded application of the death penalty.

The commission, better known in Peru as the "Comisión Goldman," has made a series of recommendations aimed at bringing the Peruvian judiciary into conformity with international standards on due process and independence. The recommendations of the commission were transmitted to the Peruvian government and are expected to be made public in the near future. 🌐

Antonio Maldonado is a Peruvian attorney currently pursuing his LL.M. in International Legal Studies at WCL.

Diego Rodríguez, a Colombian attorney, will complete his LL.M. at WCL this spring and is currently a legal associate for Latin America at the International Human Rights Law Group.