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MONTHLY SECURITY INDICATORS July 2002

Summary

- Inter-American Commission on Human Rights rules in favor of Lori Berenson
- Government announces new anti-terrorism legislation
- Judicial oversight board dismisses Terrorism Court judge
- Prisoners accused of terrorism turn to legal mechanisms for help
- Shining Path hones activities in jungle regions
- Government says Shining Path infiltration at universities under control
- Problems with drug crop eradication and alternative development programs
- Voters see lack of citizen security as one of Lima's major problems

TERRORISM

Overview

OAS decision

Peruvian authorities were apparently caught off guard by a July 15 ruling from the Inter-American Commission on Human Rights (IAHRC), a branch of the Organization of American States (OAS), recommending that the OAS court in Costa Rica hear the case of Lori Berenson, a US woman jailed since 1995 on terrorism charges.

As a result of the ruling, which criticized Peru's anti-terrorism laws, the Inter-American Court of Human Rights will reopen the Berenson case. The court could order the Peruvian government to release Berenson. A decision will not be handed down for at least a year. Decisions handed down by the court are binding, because Peru has subscribed fully to OAS judicial mechanisms.

The former government headed by Alberto Fujimori (1990-2000) freed one person accused of terrorism after the Court ordered her release in the late 1990s. The case was similar to that of Berenson, involving two trials for the same crime.

Berenson was arrested in 1995 and tried by a military court made up of "faceless" judges in early 1996. She was sentenced to life in prison for alleged participation in the Tupac Amaru Revolutionary Movement (MRTA). Her trial and the entire court process were annulled in mid-2000 by Fujimori's government. She was retried in 2001, found guilty and sentenced to 20 years for "collaboration" with the MRTA.

The government immediately rejected the commission's decision, with former Justice Minister Fernando Olivera taking the lead in criticizing the OAS system. Olivera, who was replaced July 27 as Justice Minister, said the Peruvian government would bring the

commission itself to the OAS court for allegedly violating Peru's sovereignty and laws to fight terrorism.

Congress also weighed in with a number of motions tied to the decision. The most radical proposal was put forth by Rep. Jorge Mera (Somos Peru-Loreto), who called on President Alejandro Toledo's administration to withdraw from the court's jurisdiction. Mera's idea reflected the same approach taken by Fujimori's administration in the late 1990s, when the court was set to rule on a number of cases related to Peru's anti-terrorism legislation. Fujimori withdrew from the court's jurisdiction, provoking an outcry from local opposition parties. One of the first actions of interim President Valentin Paniagua's government was to annul this decision and re-establish full ties with the OAS system.

Much of the political noise died down after Allan Wagner, who was in the process of moving from his post as Peruvian Ambassador in Washington to head the Foreign Ministry, said Peru was only planning "to debate" the commission in the Court, and not sue it. Susan Villaran, Peru's delegate to the court, called Olivera's comments ridiculous.

(Comment: Olivera's comments reflected a major shift of his position. He was one of the most vociferous opponents of Fujimori's actions regarding the OAS; but, three years later, he employed much the same language and posturing as the former President.)

New terrorism legislation

One concrete action adopted by the Toledo government was quick approval of new anti-terrorism legislation to avoid future problems with international legal institutions and mechanisms. The Inter-American Court had declared the country's anti-terrorism laws unconstitutional back in 1998, the spark that led Fujimori to cease recognition of its jurisdiction in Peru.

The major changes in the new legislation prohibit trial of civilians by military courts and alter the names of some crimes. The law upholds life sentences for the leaders of terrorist groups and those who carry out violent actions. It includes 25-year sentences for lower-ranking members and 20-year sentences for collaborators or people who "instigate terrorist acts". This last crime replaces the figure of "support for terrorism," which was criticized as being too vague.

According to government spokespersons, the changes bring Peruvian legislation in line with international norms and will help the administration avoid situations similar to that caused by the Berenson case.

During his State of the Union Address on July 28, President Toledo said his government would maintain an iron fist when it came to terrorism. He said the laws would ensure that no terrorist would be released from prison.

Anti-Terrorism and Organized Crime Court

If the government thought it had problems with the OAS commission's decision, it faced a serious complication at home with the decision of the National Magistrate Council (CNM) to fire Judge Marcos Ibazeta, President of the Anti-Terrorism and Organized Crime Court.

Ibazeta was removed from his post for alleged ties to corrupt officials in former President Fujimori's government. Among the other 40 people losing their jobs were Judge Eliana Araujo and Prosecutor Victor Cubas. All three were involved in conducting Berenson's retrial in 2001.

The CNM's decision plays perfectly into the hands of Berenson's defense team, which argued to the OAS commission that Ibazeta and his colleagues were corrupt and that Berenson did not receive a fair hearing.

Ibazeta said his removal only two days after the OAS commission's ruling was not a coincidence. He said there were "hidden interests" in the Judiciary that want to force the government's hand in the Berenson case.

Ibazeta is appealing the CNM's decision. "I feel that I've been given less room than Ms. Berenson. If she can file petitions, then I will file the same petitions," he said. "This was a politically motivated decision that needs to be examined."

Judge Pablo Talavera replaced Ibazeta.

Shining Path

Overview

The Shining Path is taking full advantage of loopholes in Peruvian legislation to press for release of a number of cadre serving prison sentences. Judicial experts warn that more than 2,000 inmates jailed on terrorism charges could try to take advantage of the OAS decision to demand their release.

The most noteworthy case in July was a habeas corpus petition filed by Maritza Garrido Lecca, arguing for her immediate release. Garrido Lecca, a professional dancer, was arrested with Shining Path founder Abimael Guzman in September 1992. She rented the safe house where Guzman was caught. The first floor of the house served as her dance studio, while Guzman and other Shining Path leaders lived on the second level.

Judge Mercedes Gomez accepted Garrido Lecca's petition on July 18, setting off a firestorm in the administration. Interior Minister Gino Costa immediately said the government would not allow convicted terrorists to simply walk out of prison. Former Anti-Terrorism Judge Ibazeta added that the courts were incorrectly using habeas corpus petitions, accepting them to annul entire judicial processes.

Judge Gomez ruled a week later, on July 24, that there were no grounds for Garrido Lecca's appeal.

In addition to Garrido Lecca, Elena Morote, the daughter of the Shining Path's second-in-command, Osman Morote, also requested early release from prison. She argued that

she had already served more than half her 20 year sentence and, therefore, should be released. She was arrested before stricter anti-terrorism laws were enacted by the Fujimori administration in 1992. As such, her lawyers argue, her case should be evaluated according to earlier legislation, which allowed inmates accused of terrorism to be released for good behavior after serving 50 percent of their sentences.

Not to be outdone, Shining Path leader Abimael Guzman also filed a habeas corpus petition. He has asked the Constitutional Tribunal to declare his trial unconstitutional, which would lead to his release. The Tribunal is expected to rule on the petition in August.

Other accused members of the Shining Path have been luckier with their petitions. Judge Celinda Segura ordered the release of Hugo Izaguirre in mid-July. Izaguirre was a member of Socorro Popular, the Shining Path's logistics committee. He was first arrested in 1990, but released almost immediately. He was arrested again in 1997.

Another three other Shining Path members have been released recently through habeas corpus petitions, and there are 30 similar petitions making their way through the court system.

In another legal area, Judge Genaro Jeri rejected a petition from the military justice system to hand over the three Shining Path members arrested in June for the March 20 bombing near the US Embassy in Lima. The attack killed 10 people. The judge argued that passing the case to the military would violate the Inter-American Convention on Human Rights, the same convention Berenson's lawyers appealed to when requesting a review of her trial.

Jungle

Several government authorities blame the Shining Path for heightening tensions between farmers growing coca, the raw material used to make cocaine, and anti-narcotics programs in the Upper Huallaga Valley.

Demetrio Manche, head of the government Peace and Development Commission in the valley, says Shining Path cadres are working to infiltrate organizations throughout the coca-growing regions. He suspects that Shining Path elements contributed to violent disturbances in Aguaytia in mid-July.

A group of farmers, mainly associated with local coca-growing federations, attacked the offices of an NGO in Aguaytia to protest forced eradication of drug crops and alternative development programs. The mob sacked the offices of Codesu, a partner of the US Agency for International Development, burning files and equipment, stealing computers and destroying several vehicles.

The same group was blamed for attacking an eradication brigade and nearly downing an anti-narcotics helicopter a week later.

"It is wrong to think the Shining Path has been defeated here. They are still present, but have changed their tactics. They are infiltrating farmers' organizations, promising to help them in their fight with the government," says Manche.

According to a report from the Army Intelligence Service, there are Shining Path columns operating in the departments of Huanuco, San Martin and Ucayali in the north and in the jungle regions of Junin and Ayacucho to the southeast. These areas form the backbone of the coca-growing region.

The army and police have detected Shining Path presence – and some popular support for the rebels – in areas where alternative crops to coca have been failing. One such area is San Martin de Pangoa, in Junin, where coffee replaced coca. The sinking worldwide coffee market has soured farmers to alternatives, a situation the Shining Path has not missed.

At the anti-narcotics base in Mazamari, which neighbors San Martin de Pangoa, Col. Raul Quintana says there are troubling indications of links between the Shining Path and drug trafficking. He says that local coca farmers are getting much bolder in their planting and much more hostile, unafraid to attack the eradication brigades. He says the police in his region have located fourteen clandestine airstrips in the past year.

(Comment: Manche sees obvious synergies between the Shining Path and drug traffickers in many of the most conflictive coca-growing areas. He stops short of saying that the forces have formed an alliance, but does believe they are working in tandem of derail anti-narcotics programs. For the traffickers, this means greater access to the raw material they need. For the Shining Path, opposition to anti-drug crops policies could blossom into a generalized anti-government attitude).

Finally, the daily *La Republica* reported in late July that the police had a solid lead to arrest Filomeno Cerron, known as Comrade Artemio. Artemio is one of the remaining original Shining Path leaders and is in charge of the Upper Huallaga command. His arrest would be a blow to the Shining Path's reorganization and would be a major psychological boost for the government.

Highlands

As in past months, Shining Path columns were reported principally in the upper reaches of the central highland Departments of Ayacucho and Huancavelica. Analysts recently in the areas believe the Shining Path is keen on regaining strength in Ayacucho and, particularly, in areas such as La Mar Province, for both logistical and psychological reasons.

As the party attempts to regroup and attract new supporters, analysts say it is looking for the boost that would come from rekindling support in the central highlands, where it got its start and grew quickly in the early 1980s.

A police patrol came across a Shining Path column in the high Ayacuchan *puna* in early July, but there were no casualties on either side. The police reported that the column was already retreating when they arrived.

Reports of Shining Path activities have also increased in the northern highlands, specifically in the higher elevations of Piura and in corridors in Ancash and Cajamarca

that were used by subversives a decade ago. Shining Path slogans have appeared in a number of hamlets in Piura.

Concern about terrorist activity in the north gained added weight with the arrest of the Shining Path members who participated in the March 20 bombing in Lima. The three terrorists were arrested in Chiclayo and allegedly were in the north reactivating columns in Lambayeque and Piura.

Lima

The National Police were on high alert in the days surrounding Independence Day, July 28, after receiving information that the Shining Path could be planning an assassination attempt on President Toledo and other high-ranking government authorities.

While Interior Minister Gino Costa denied that any plan was discovered, the massive security measures unveiled at the end of July contradicted his statements. The police closed off all the streets leading to the Palace in a four-block radius and substantially increased the security detail around Toledo and his Cabinet members.

According to police sources, the Shining Path has carried out approximately 100 actions this year, nearly one-fourth of which took place in or near Lima. The most important was the March 20 bombing near the US Embassy in Lima, which killed 10 people.

Anti-terrorism experts say the Shining Path continues to rebuild its Lima Metropolitan Committee and has started to concentrate on infiltrating unions and civil society groups in the city once again. Targets include the Teachers' Union (SUTEP), the General Confederation of Peruvian Workers (CGTP) and the Civil Construction Workers Union. The goal would be to press for a hard-line position against the government and to stir up tempers during strikes and other demonstrations.

Civil society groups reportedly targeted for infiltration include defense fronts (including the National Coordinating Committee of Regional Defense Fronts), government-subsidized soup kitchens, and "Glass of Milk" breakfast programs. The goal with these organizations is also to encourage anti-government sentiments.

(Comment: The National Coordinating Committee of Regional Defense Fronts is at a crossroads, with members accusing each other of selling out to the government or pursuing a radical left-wing line. The Shining Path has proven itself adept at finding a weak link and infiltrating. This was a key element in its strategy to take over civil society groups in Lima's populous shantytowns in the early 1990s. The experience in Villa El Salvador, where the Shining Path managed to divide a number of social organizations, is an example. The current infighting in the defense fronts appears to be an opportunity made to order for the Shining Path.)

The number of habeas corpus petitions filed on behalf of jailed Shining Path members has led jurists and anti-terrorism experts to claim that the Shining Path has started to reorganize its legal branch, which was known in the 1980s and early 1990s as the Association of Democratic Lawyers (ADA).

Analysts frequently mention two particular groups -- the Pro Defense of Life and Liberty Association (Aprodevil) and the Association of Relatives of Political Prisoners and the Disappeared in Peru -- when they talk about Shining Path legal strategies. Both groups argue for a substantial modification in anti-terrorism laws and a review of all cases of civilians tried in military courts. Aprodevil lawyer Nilda Tincopa is petitioning for all prisoners tried by "faceless" tribunals to be released immediately.

Several former ADA lawyers have been released recently from prison and others, suspected of Shining Path links but never arrested, have been linked to habeas corpus petitions filed on behalf of party members in the past few months.

Universities

Shining Path infiltration of state-run universities continued to provoke a flurry of commentaries during July. Student groups remained divided on the question of terrorist infiltration, with some student leaders saying the National Association of University Rectors is promoting the rumor in order to keep control of the schools.

The Vice President of the National University Student Federation, Jaime Montes, however, says there is ample evidence showing Shining Path presence in different campus student organizations.

Interior Minister Gino Costa, who initially dismissed reports of Shining Path reorganization on campuses, now says the terrorist infiltration at universities "is under control." He said that Anti-Terrorism Police have identified and brought under control "terrorist cells" trying to regroup on the campuses.

In Lima, the police say the main foci of Shining Path proselitization have been the San Marcos National University and the National Engineering University, both centers of Shining Path activity throughout the 1980s. A document from the Army Intelligence Service also adds the La Cantuta Teachers College and the Federico Villareal University, which has its main campus in downtown Lima.

Tupac Amaru Revolutionary Movement (MRTA)

The MRTA was back in the news once again because of cases involving alleged members jailed since the mid-1990s. The two most notable cases involve Lori Berenson, a US citizen, and four Chileans, all serving sentences for alleged participation in the MRTA.

In addition to these cases, which are described below, MRTA founder and leader Victor Polay is also demanding a retrial. Polay has been in prison since August 1992. He is requesting that the Peruvian government comply with a declaration from the UN Human Rights Committee in the late 1990s stating that he should be given a new trial. Polay's lawyers say they will take the case to the OAS, if local courts do not accept his request.

Despite the movement in these important cases, MRTA remains inactive.

Berenson case

The case of US citizen Lori Berenson continues to haunt the Peruvian Government. Berenson, in prison since 1995, got a new chance to have her case heard when the Inter-American Commission on Human Rights voted in mid-July to pass her case to the Inter-American Court of Human Rights for a hearing. Both the Commission and the Court are part of the Organization of American States' legal apparatus.

If the court rules in Berenson's favor, it would force the government to release her. Her defense argues that the government violated due process in her 1996 trial and that the 2001 retrial was double jeopardy.

Berenson has maintained her innocence since her arrest in November 1995. In a July 19 letter to journalists, Berenson reiterated the claim, saying that while the press may see her as a "monster," she is only concerned that Peru understand political violence "in its true dimensions, its causes, actions and actors, in order to dignify all the victims and society in general."

(Comment: Releasing Berenson would be a serious blow to the Toledo administration, or any government for that matter. Despite her claims, the vast majority of Peruvians believe she is guilty. Furthermore, many retain an image of her at the retrial as smug and disdainful of Peruvian laws.)

Chilean case

The re-trial is nearing for the four Chileans accused of belonging to the MRTA. Like Berenson, the Court ordered that the four alleged terrorists -- three men and one woman -- be retried because their earlier trials violated due process.

They are accused of belonging to the MRTA and of participating in kidnappings in the 1990s. Three were arrested in the safe house where businessman Raul Hiraoka was being held hostage. They are also accused of participating in a bombing attack on the Peruvian-North American Cultural Institute. The prosecutor on the case, however, did not find sufficient evidence to link them to other high-profile cases, including the kidnapping of Daniel Furukawa, David Ballon and Hector Delgado Parker.

They will receive sentences of up to 25 years if found guilty by the Anti-Terrorism Court in a trial scheduled to begin sometime in August.

Communist Party of Peru - Patria Roja

Patria Roja, a legally established party in Peru, cannot escape allegations that radical sectors of the party have established links with the Revolutionary Armed Forces of Colombia (FARC).

Juan Velit, head of the National Intelligence Council (CNI), said there are strong indications that members of Patria Roja maintain regular contact with the Colombian guerrillas.

Patria Roja denies the charges. The party has also run into trouble in the National Coordinating Committee of Regional Defense Fronts, where several members blame Patria Roja for pushing the committee toward violent confrontation with the government. *(Comment: The most vociferous anti-Patria stand has been taken by Washington Roman of the Cuzco Regional Assembly. He blames Patria Roja for instigating calls for the failed July 17 strike and for lobbying defense fronts not to sign the National Accord. Roman was a one-time supporter of Patria, making the break even more intriguing.)*

In the meantime, the party is gearing up for the Nov. 17 municipal and regional elections, opening offices in several cities in the highlands. Patria Roja now has offices in Cuzco, Arequipa, Huaraz and Cajamarca, as well as in cities in the jungle region. The party is attempting to concentrate its electoral efforts in areas where social conflicts have been rife or are boiling just beneath the surface.

Revolutionary Armed Forces of Colombia (FARC)

The CNI's Velit admits that FARC soldiers have infiltrated Peruvian territory, but says they have not come to spread armed conflict.

Peru has dispatched additional soldiers to the border with Colombia, and President Toledo had a brief meeting with President-Elect Alvaro Uribe in Lima. Toledo said the two discussed security issues.

Independent security experts say FARC infiltration is much greater than the government admits and that the administration has kept incursions a secret. The military and police, however, have beefed up patrols in a number of strategic areas around the country, including as far south as Junin, because of reports of FARC activity.

Analysts are closely watching Colombia as Uribe's Aug. 7 inauguration nears. Uribe has promised to use an iron fist to deal with subversion.

DRUG TRAFFICKING

The Peruvian government is at a crossroads in its anti-narcotics efforts, trying to figure out how to conduct drug eradication programs without provoking opposition from farmers. In late June and early July, the government suspended eradication plans and alternative development programs in several coca-growing areas because of pressure from farmers.

In the Apurimac Valley, the government agreed with coca farmers to ask the US Agency for International Development's partner organization, CARE, to suspend activities pending an internal investigation. In the northern coca-growing region, in the Upper Huallaga Valley, alternative development programs were suspended after a mob attacked the offices of a local partner organization. Eradication programs have also slowed down in most areas due to threats of violence.

According to Peruvian sources, coca crops may have increased as much as 25 percent so far this year.

CEDRO, a local drug prevention NGO, is reporting a rise in domestic drug abuse. According to this NGO, of the urban population between the ages of 12 and 64 years of age, 6.1 percent have tried marijuana, 2.4 percent have used crack, and 2 percent have used cocaine at least once. At least 80,000 people in Lima are addicted to cocaine.

The Peruvian police made a number of drug busts in July, confiscating more than 200 kilos of cocaine. A cache of opium latex, from which heroin is made, was also nabbed late in the month. The police destroyed 3,000 poppy plants, from which opium is made, and decommissioned 1.5 kilos of latex, 1 kilo of poppy pods and 1.4 kilos of poppy seeds in Cajamarca on July 30.

The police have arrested more than 70 people attempting to smuggle drugs through Lima's airport so far this year. The newest trafficking ploy is to ingest capsules filled with cocaine.

CRIME

Citizen security has quickly become one of the principal issues in Lima and other cities. According to a recent survey by the IMA firm, 58.4 percent of voters in Lima/Callao said insecurity is Lima's number one problem. It is followed by transportation, which was cited by 9 percent of respondents as the city's worst problem. In a separate question, 74.1 percent said Lima and Callao are not safe places to live.

Polls taken by larger firms, including CPI and the University of Lima, also found that citizen security is among the top four concerns of voters.

Security experts say the rising concern among the population is justified. Both public and private statistics point to a rapidly increasing crime rate, particularly in upscale neighborhoods, such as Miraflores, Monterrico, San Borja, San Isidro and Surco.

A report by the polling firm, Analistas y Consultores, found that purse snatchings and armed robbery were the most common crimes. The report also listed snatch-and-grabs in public places as a new trend. Locales where this type of crime was reported include MacDonald's restaurants in Magdalena and El Polo, the Subway Sandwich Shop in San Isidro, the Norky's chicken restaurant in Miraflores, and the Saga department store in Jockey Plaza.

Finally, the report mentioned a new form of "quickie kidnappings." The perpetrators cause a small fender-bender and grab the driver when he or she gets out of the car. In these crimes, the victim is generally taken to a bank and forced to withdraw money from an automatic teller or taken to his or her home and forced to hand over belongings, silver, jewelry, or cash. The report was based on information from the Peruvian National Police (PNP).

The National Police arrested two gangs involved in murdering taxi drivers for their cars, charging them with three murders.

The Police also definitely established that the June kidnapping of businessman Carlos Tonani Camusso was planned in Lima's Castro Castro prison. The National Penitentiary Institute (INPE) has taken steps to crack down on prisons. A special monitoring system

was installed in the San Jorge prison to block the four cellular phone frequencies used in the city, and 31 surveillance cameras were installed in Castro Castro. INPE directors say they lack resources to implement additional changes.

The National Police suffered several losses in July. Three officers were killed – two in Lima and one in Trujillo -- while attempting to detain suspects, while two others were seriously wounded.

Another officer was arrested for participating in the July 1 murder of a Spanish bullfighter in Miraflores. The officer and three members of Miraflores' district police, known as Serenazgo, were arrested for the murder in early July.

The Police also came under a cloud of suspicion after the deadly disco fire in Lima July 20, which killed 30 people. Officers are accused to stealing the personal belongings of several of the young people who died at the Utopia disco.

Nearly two weeks after the fire, there have been no arrests, even though the disco lacked a building permit and operating license and it met almost no fire codes. The disco did not have a sprinkler system and its fire exits were blocked and locked. There was only one fire extinguisher, and it did not work either.

Local security experts say what happened in Miraflores and the Utopia disco reflects the general climate of indifference, informality and lawlessness that is contributing to citizen insecurity. "No one feels safe, because no one trusts the law or the people in charge of enforcing the law," said the head of one private security firm.

Finally, the long-awaited report from former New York Police Chief William Bratton has yet to materialize. The Municipality of Lima, which hired Bratton to do a diagnosis of the crime problem and how to solve it, was supposed to announce the findings on July 15.

(Comment: One of the suggestions Bratton offered during his visit to Lima two months ago was the possibility of creating municipal police forces under the control of local mayors. The National Police immediately dismissed the possibility and, after the murder of the Spanish bullfighter at the hands of Miraflores Serenazgo, many citizens might also have a less-than-favorable opinion about this option.)

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