



WOLA

THE WASHINGTON OFFICE ON LATIN AMERICA

Promoting Human Rights, Democracy, and Social Justice

WOLA Statement
August 27, 2012

Inter-American Court Holds Hearing to Review Controversial Supreme Court Ruling in landmark Barrios Altos Case

WOLA Looks to the Court to Nullify the Controversial Verdict

The Inter-American Court of Human Rights is reviewing a controversial Peruvian Supreme Court ruling today which, if ultimately upheld, could erode advances in human rights and transitional justice made since the end of the Fujimori era. The [ruling](#), handed down on July 20, reduces the sentences of notorious criminals, including former security chief Vladimiro Montesinos, and turns on its head established jurisprudence of previous Peruvian Supreme Court decisions, decisions by Peru's Constitutional Tribunal (*Tribunal Constitucional*), and rulings by the Inter-American Court of Human Rights.

Beyond the sentence reductions, Peruvian human rights advocates have sharply criticized the verdict for concluding that the crimes in question—the massacre of 15 people at Barrios Altos, the forced disappearance of journalist Pedro Yauri, and the disappearance of nine peasant leaders from Santa—constituted a state policy directed at terrorists, not civilians, and thus do

not constitute crimes against humanity. Human rights advocates in Peru have noted that none of the victims in these cases have been determined to have had any involvement in terrorist groups. Moreover, rights advocates say that this line of reasoning seeks to excuse excesses of state violence when directed at terrorist targets even if combat is not involved, which contradicts international law.

The Peruvian Supreme Court ruling also calls into question the internationally accepted legal concept of *autoría mediata*, which holds that the heads of organizations engaged in illegal behavior are criminally responsible for the actions of their subordinates. The Supreme Court used this concept to convict former president Alberto Fujimori of crimes against humanity in 2009, and the current challenge to the concept of *autoría mediata* could facilitate a pardon of Fujimori, which right-wing leaders have sought for the past three years.

Inter-American Court rulings are binding on member states, though the Court does not have enforcement mechanisms. Nevertheless, it does have the power to nullify the sentence if it determines that it violates Peru's obligations under the Inter-American Court sentence handed down in the Barrios Altos case in March 2001. WOLA and its allies in Peru look to the Court to nullify the verdict, and thereby take an important stand against those seeking to use legal mechanisms to generate new forms of impunity in Peru.

“The victims of political violence in Peru have fought long and hard to overcome diverse forms of institutionalized impunity,” said WOLA Senior Fellow Jo-Marie Burt. **“Many obstacles have emerged in recent years, frustrating these efforts and resulting in a high number of acquittals in human rights cases.”**

The sentence emitted in 2010 for the Barrios Altos, Santa, and Pedro Yauri cases was seen as a major victory precisely because of its solid legal argumentation, its use of international law, and its robust sentences against those found responsible for these heinous crimes. According to Burt, **“The sentence now under review, which undid the key elements of that 2010 sentence, represents a major setback. WOLA is hopeful that the Inter-American Court will nullify this sentence and bolster truth and justice efforts in Peru.”**

For more background on the controversial Supreme Court ruling, see WOLA's recent commentary, “Grave Step Backward for Efforts to Achieve Truth and Justice in Peru” ([Spanish](#) and [English](#)).

See also: Press release from the [Instituto de Defensa Legal](#) (Spanish only).

CONTACT:

Jo-Marie Burt, Senior Fellow

jmburt.wola@gmail.com



© Washington Office on Latin America | Tel: (202) 797-2171 | www.wola.org

[Click to view this email in a browser](#)

If you no longer wish to receive these emails, please reply to this message with "Unsubscribe" in the subject line or simply click on the following link: [Unsubscribe](#)

Washington Office on Latin America
1666 Connecticut Avenue, NW
Suite 400
Washington, DC 20009
USA

[Read the VerticalResponse marketing policy.](#)

