



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE  
Thirty-fifth session  
7-25 November 2005

**List of issues to be considered during the examination of the  
fourth periodic report of PERU (CAT/C/61/Add.2)**

**Article 1**

1. Please provide more information about the incorporation of the provisions of the Rome Statute of the International Criminal Court into the Peruvian Penal Code.

**Article 2**

2. The fourth periodic report contains information on the incidence of torture during the period from 2000 to 2005. Please clarify how many cases relate to the police, the army and the penitentiary system, respectively.
3. Please indicate what progress has been made in the investigations into allegations of torture reported between 2000 and 2005 and provide statistics identifying the institutions responsible, geographical location, the victims' sex, age and ethnicity (specifically Quechua), and the number of police, army and prison officers who have been suspended from their duties as a preventive measure or have subsequently been dismissed. Also, please provide the Committee with information about all penalties imposed on individuals found guilty of torture or cruel, inhuman or degrading treatment between 2000 and 2005.
4. Please state whether there have been any investigations of police or army brutality in connection with the states of emergency, particularly in the context of the incidents of May 2003. According to information received, a number of people have died and more than 100 have been injured in protests in recent years. Please also indicate what training the police and the army receive in the use of reasonable force, and whether there is any independent machinery to challenge the actions of the police and the army.

5. Please indicate what measures have been adopted to ensure that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is implemented consistently throughout the country.
6. The Committee has been informed that the military authorities have refused to cooperate with the Office of the Human Rights Ombudsman. Please indicate whether and how information regarding the mandate of the Office has been disseminated to all military bodies. What measures has the Ministry of Defence taken to deal with incidents in which the work of the Ombudsman's Office has been obstructed?
7. The Committee considers that there is a high incidence of allegations of torture in the army, especially among individuals performing military service. Please provide detailed information about these cases.
8. The Committee notes that the State party has not carried out the recommendation to establish a national registry of complaints from individuals claiming to be victims of torture. Please indicate whether there are any plans to establish such a registry and provide information about such plans.
9. Please state whether national legislation specifically provides that no circumstances, including compliance with an order from a superior officer, may be invoked as a justification of torture. In the light of article 137 of the Constitution and the Constitutional Court decision of March 2004 on the declaration of states of emergency, please provide additional information about legal and administrative oversight measures that currently apply when a state of emergency is declared.

### **Article 3**

10. How does the State party ensure compliance with article 3, paragraph 1, of the Convention in cases of expulsion, return or extradition? Is there a mechanism for assessing the risk of torture that a person might face in the country of return? Can the person appeal the decision to a judicial authority, and if so, how? Please provide statistics on the number of cases.
11. Please provide information on bodies or organizations that have access to asylum-seekers in order to provide them with counsel.

### **Article 4**

12. Please inform the Committee whether the legislation prohibiting torture and other cruel, inhuman or degrading treatment or punishment takes the gender perspective into account when defining the types of conduct that are contrary to the Convention, and whether sexual violence is included. Please explain what measures have been taken to prevent and monitor this type of act, particularly in places where persons are deprived of liberty.
13. Please state whether the Convention has been directly invoked in Peruvian courts. If so, please cite specific cases.

### **Article 10**

14. Please provide information on training programmes dealing with the obligations imposed by the Convention on police and army officers, prison officials and prosecutors, particularly with regard to the correct classification of instances of torture (see State party report, paragraph 110). How many prosecutors are assigned to investigate complaints of human rights violations?

15. Please state whether the State party has any training programmes for medical personnel involved in the identification and documentation of cases of torture and the treatment and rehabilitation of victims. If so, please describe the form and content of these programmes.

### **Article 11**

16. Please state how many lawyers serve as public defenders and how many doctors serve the prison population.

17. What measures have been taken to disseminate and familiarize prison staff with the National Plan for the Treatment of Prisoners developed by the Ministry of Justice?

18. In previous concluding observations the Committee expressed concern at the prison regime applicable to convicted terrorists. Notwithstanding the Constitutional Court decision of January 2003, complaints relating to access to legal assistance persist; what measures is the State party taking in this regard?

19. Please indicate how many prisoners previously sentenced to solitary confinement have seen their prison conditions change, and how.

20. Please indicate the current purpose of Challapalca prison in Tacna and Yanamayo prison in Puno. Notwithstanding the recommendations by the Human Rights Committee and the Inter-American Commission on Human Rights that these prisons should be closed down, the Committee has received reports that they are still in use, although with reduced capacity, and complaints of torture and ill-treatment persist.

21. Please provide statistics broken down by sex, age, ethnicity and geographical region for the prison population, including both convicts and persons in pretrial detention. Please also describe the conditions in which minors are held and describe what measures are taken to ensure that they are held separately from adults.

### **Article 12**

22. Please provide information on measures taken to ensure that the military criminal justice system complies with its international human rights obligations, particularly with regard to the following recommendations:

- (a) That it should be independent from the executive branch;
- (b) That legal training should be a requirement for military judges, and that they should not be in active service;

- (c) That the police should be excluded from the jurisdiction of the military justice system;
- (d) That civilians may not be tried in military courts;
- (e) That judgements should be reviewed by the Supreme Court;
- (f) That offences committed in the course of duty should be defined in accordance with international jurisprudence in that area.

23. Please state whether the amnesty laws have been officially repealed.

24. In light of the obligations imposed by article 12 of the Convention, please indicate what steps have been taken to protect prosecutors against threats. How many cases of threats against prosecutors have been recorded, and what progress has been made in investigating these cases?

### **Article 13**

25. Please provide updated information about the retrial of persons previously convicted of terrorist acts by military courts and faceless judges, pursuant to the Constitutional Court decision of January 2003.

26. Please provide information about the measures currently in place to protect witnesses and victims of torture, with a view to ensuring their safety and physical integrity.

### **Article 14**

27. What compensation has been provided to persons acquitted of charges of terrorism who were unjustly imprisoned?

28. Please provide statistics broken down by sex, age, ethnicity (specifically Quechua) and geographical origin relating to the compensation paid to victims of torture or cruel, inhuman or degrading treatment between 2000 and 2005.

29. Please inform the Committee what measures have been instituted to follow up the recommendations of the Truth Commission. In particular, please describe what progress has been made in the implementation of the Comprehensive Plan for Reparations and the National Plan for Forensic Anthropological Interventions.

30. Please tell what kind of care and rehabilitation, both medical and psychological, is available to victims of torture or cruel, inhuman or degrading treatment. What budgetary appropriations are made for this purpose?

### **Article 15**

31. Please state whether there are any legislative texts that specifically prohibit the use in legal proceedings of information obtained by means of torture.

### Various articles

32. Are there any legal texts in the State party that prohibit the production and sale of materials specifically intended to inflict torture or other cruel, inhuman or degrading treatment? If so, please provide information on the content and application of such legislation. If not, please indicate whether the possible adoption of legislation along these lines is being considered.
33. In its concluding observations on Peru in 2000, at its seventieth session, the Human Rights Committee noted that the severe penalties applicable to persons convicted of the offence of abortion, the main cause of maternal mortality in Peru, violated various rights including article 7 of the International Covenant on Civil and Political Rights. It recommended that the State party should take measures to establish exceptions to the total ban on abortion (CCPR/CO/70/PER, para. 20). Please indicate what measures have been taken to that end.
34. At the same session, the Human Rights Committee expressed its concern about reports of forced sterilizations, particularly of indigenous women in rural areas and women from the most vulnerable social sectors (*ibid.*, para. 21). Please indicate what has been done to ensure that persons who undergo sterilization procedures are fully informed before giving their consent.
35. Please indicate when Peru intends to sign and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In that connection, have measures been taken to establish or designate a national mechanism to carry out periodic visits to places of detention with a view to preventing torture and other cruel, inhuman or degrading treatment?
36. Please state whether NGOs were consulted in the preparation of this report.
37. In the light of the Security Council resolutions adopted in this area, please describe any legislative, administrative or other kind of measures that have been adopted to combat terrorism. Also, please state whether these measures have had any affect on legal guarantees and practices in the area of human rights.

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