



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

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Committee against Torture

List of issues prior to the submission of the seventh periodic report of Peru, due in 2016*

At its thirty-eighth session (A/62/44, paras. 23 and 24), the Committee against Torture established a new optional procedure consisting of the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic reports. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations¹

Article 1

1. With reference to the Committee's previous concluding observations (para. 7), please provide information on the measures taken to adopt a definition of torture in domestic criminal law consistent with article 1 of the Convention.

* Adopted by the Committee at its fifty-second session (28 April–23 May 2014).

¹ Paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CAT/C/PER/CO/5-6).



Article 2²

2. In the light of the Committee's previous concluding observations (para. 8), please provide information on the steps taken and the procedures in place to ensure that, in practice, all persons deprived of their liberty are guaranteed the right to be informed of the reasons for their arrest and of the charges against them, to have access to a lawyer of their choice, to contact a family member or trusted person, to undergo an independent medical examination without delay and to be brought promptly before a judge. Do persons deprived of their liberty have access to free legal aid if they are in need of such support? With regard to the follow-up information provided by the State party, please report on the progress made in securing passage of the draft implementing regulations for the National Police Act.³

3. Please provide information on the measures taken by the State party to ensure that the activities of the Ombudsman's Office are in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights adopted by the General Assembly in its resolution 48/134 (Paris Principles).⁴ Please also indicate what human, financial and material resources have been allocated to the Ombudsman's Office since the consideration of the previous periodic report in 2012. Please provide statistics on the number and types of complaints received during the reporting period and on the follow-up given to any complaints of torture or ill-treatment.

4. Please provide updated information on the content and status of bill No. 1618/2012-CR on the establishment and implementation of a national mechanism for the prevention of torture.⁵

5. Please provide information on the main elements of the National Human Rights Plan 2012–2016 that are designed to prevent the commission of acts of torture or other cruel, inhuman or degrading treatment or punishment.⁶

6. With reference to the Committee's previous concluding observations (para. 14), please provide data, disaggregated by age and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of gender-based violence since the consideration of the State party's previous report.⁷ What concrete steps have been taken to implement the second National Plan to Combat Violence against Women 2009–2015?⁸ Has the State party evaluated the effectiveness of the measures taken to eradicate this type of violence, particularly domestic

² The issues raised under article 2 may also arise under other articles of the Convention, including, but not limited to, article 16. As stated in paragraph 3 of the Committee's general comment No. 2 on the implementation of article 2 by States parties: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture ... In practice, the definitional threshold between ill-treatment and torture is often not clear." See also chapter V of the same general comment.

³ CAT/C/PER/CO/5-6/Add.1, para. 13.

⁴ CAT/C/PER/CO/5-6/Add.1, para. 17; A/HRC/WG.6/14/PER/1, para. 55; A/HRC/22/15, paras. 75, 116.17 and 116.18.

⁵ CAT/C/PER/CO/5-6/Add.1, para. 35; CAT/C/PER/CO/5-6, para. 11; CCPR/C/PER/CO/5, para. 19; A/HRC/WG.6/14/PER/1, paras. 96–97; A/HRC/22/15, paras. 34 and 116.16.

⁶ CCPR/C/PER/CO/5, para. 6; A/HRC/WG.6/14/PER/1, paras. 98–99; A/HRC/WG.6/14/PER/3, para. 15; A/HRC/22/15, paras. 94 and 116.22.

⁷ CCPR/C/PER/CO/5, para. 10; A/HRC/22/15, para. 116.52.

⁸ A/HRC/WG.6/14/PER/1, paras. 39–44; A/HRC/22/15, paras. 22, 60 and 102.

violence and sexual violence against women and girls?⁹ Please comment on reports that 16.3 per cent of deaths from gender-based violence involved victims under the age of 18.

7. Please provide updated information, disaggregated by age, gender and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of trafficking in persons since the consideration of the State party's previous report.¹⁰ Please also provide additional information on:

(a) The content and implementation of the Act against Trafficking in Persons and the Smuggling of Migrants and of the National Action Plan against Trafficking in Persons 2011–2016;¹¹

(b) The evaluation of the effectiveness and impact of prevention and training campaigns conducted during the reporting period;

(c) The measures taken to ensure that victims of trafficking in persons have access to basic support and assistance services (housing, health care, psychological support, etc.) and effective and appropriate judicial remedies and redress;¹²

(d) The signing of bilateral and subregional agreements with other countries to prevent and combat trafficking in persons.

Article 3

8. Please provide detailed information on new legal and institutional developments relevant to asylum and refugee protection.¹³ Please describe the measures taken by the State party during the reporting period to ensure that no one is expelled who is in danger of being subjected to torture if returned to a third State. What is the procedure followed when a person invokes this right? Are individuals facing expulsion, return or extradition informed that they have the right to seek asylum and to appeal a deportation decision? If so, does such an appeal have suspensive effect?

9. Please provide information on the number of asylum applications received during the reporting period, the number of applications approved and the number of asylum seekers whose applications were granted because they had been tortured or might be tortured if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous report. Please provide details on the reasons for their return, including a list of the destination countries. Please provide updated information on the types of appeal mechanisms that exist, on whether any appeals have been made and if so, their outcome.

10. Please provide information on the number of cases of refoulement, extradition and expulsion carried out by the State party during the reporting period through the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures with regard to subsequent monitoring have been taken in such cases?

⁹ A/HRC/WG.6/14/PER/3, para. 27; A/HRC/22/15, paras. 69, 80 and 116.36 to 116.41.

¹⁰ CCPR/C/PER/CO/5, para. 20; A/HRC/WG.6/14/PER/1, para. 46; A/HRC/22/15, paras. 23, 44 and 49.

¹¹ A/HRC/WG.6/14/PER/1, para. 45; A/HRC/22/15, paras. 23, 49, 68, 84, 85 and 105.

¹² A/HRC/WG.6/14/PER/1, para. 47; A/HRC/22/15, para. 116.42.

¹³ CCPR/C/PER/CO/5, para. 18.

Articles 5 to 9

11. Please indicate what legislative or other measures have been taken to implement article 5 of the Convention. Under national law, are acts of torture considered offences over which the State party should have universal jurisdiction, regardless of where they occur and regardless of the nationality of the perpetrator or of the victim? Please provide relevant examples of any prosecutions of such offences.

12. Please inform the Committee of any extradition treaties concluded with other States parties and whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please indicate whether the State party also considers the Convention as the legal basis for extradition in respect of such offences.

13. Please clarify what mutual judicial assistance treaties or agreements Peru has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

14. With reference to the previous concluding observations (para. 12), please provide updated information on training programmes developed by the State party to ensure that all officials, in particular National Police officers and members of the Armed Forces, are fully aware of the provisions of the Convention and of the fact that breaches will not be tolerated and will be investigated and that offenders will be prosecuted.¹⁴ Please also indicate whether the State party has developed a methodology to assess the effectiveness and impact of training programmes in reducing the number of cases of torture and ill-treatment, and, if so, please provide information on the content and implementation of that methodology.

15. Please provide updated information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on how to detect and document the physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?¹⁵

Article 11

16. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide updated information on any rules, instructions, methods, practices or arrangements relating to detention that may have been introduced since the consideration of the previous report.¹⁶ Please also indicate how often they are reviewed.

17. With reference to the Committee's previous concluding observations (paras. 9 and 10), please provide updated statistics, disaggregated by sex, age groups, ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention, including juvenile detention centres. Please inform the Committee about the measures taken to improve conditions in detention centres,

¹⁴ CAT/C/PER/CO/5-6/Add.1, para. 14; A/HRC/22/15, paras. 116.54 and 116.55.

¹⁵ CAT/C/PER/CO/5-6, para. 8.

¹⁶ CAT/C/PER/CO/5-6/Add.1, paras. 17-29.

particularly with regard to overcrowding, to combat prolonged pretrial detention and to address the shortage of specialized staff in the State party's prisons.¹⁷ In this regard, please provide detailed information on the conditions of detention in the Lurigancho, Trujillo, Chiclayo, Challapalca and Puno (Yanamayo) prisons and in the Callao naval base maximum-security prison. Please also indicate what measures have been taken to strengthen the system of alternatives to deprivation of liberty and to increase the range of prison benefits. What measures has the State party taken to ensure the separation of pretrial detainees from convicted prisoners, juvenile detainees from adults and female detainees from male detainees, and the supervision of female detainees by women?

18. Bearing in mind the Committee's previous concluding observations (para. 10), please describe the steps taken to ensure that inmates in the prisons referred to in the foregoing paragraph are treated in accordance with the Standard Minimum Rules for the Treatment of Prisoners. Has the State party considered closing the Challapalca and Yanamayo prisons? Please comment on reports of unhealthy living conditions in punishment cells in prisons and of the arbitrary imposition of disciplinary sanctions on prisoners. Please also provide the Committee with information on the measures taken to address the increase in the incidence of multi-drug-resistant tuberculosis among the prison population. Lastly, please comment on reports that prisoners' family members are often subjected to invasive body searches, which fail to comply with minimum standards of hygiene.

19. Please provide statistics on the number of deaths in custody during the period under consideration, disaggregated by place of detention, sex, age and ethnic origin or nationality of the deceased and the cause of death. Please provide detailed information on the results of the investigations into these deaths and on the measures taken to prevent similar cases from happening. Please indicate whether relatives have received compensation in any of these cases.

20. With reference to the previous concluding observations (para. 19), please provide information on the changes in guardianship and custody of persons with disabilities introduced by the General Act on Persons with Disabilities (Act No. 29973) and the Act on the Rights of Persons with Mental Health Problems (Act No. 29889). When does the State party expect the corresponding implementing regulations to be passed?¹⁸

Articles 12 and 13

21. As requested in the Committee's previous concluding observations (para. 23), please provide statistics, disaggregated by sex, age, ethnic origin or nationality and place of detention, on the number of complaints of acts of torture and ill-treatment recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied.¹⁹ In particular, please provide information on the outcome of the investigations and disciplinary and/or criminal proceedings concerning:

(a) The death of Wilhem Calero on 14 July 2010, allegedly as a result of torture by police officials; and

¹⁷ CCPR/C/PER/CO/5, para. 21; A/HRC/WG.6/14/PER/1, paras. 68–72; A/HRC/WG.6/14/PER/3, para. 26; A/HRC/22/15, paras. 27, 45, 60, 68, 79, 95 and 116.64 to 116.67.

¹⁸ A/HRC/WG.6/14/PER/1, para. 15; A/HRC/WG.6/14/PER/3, para. 25; A/HRC/22/15, para. 13.

¹⁹ CAT/C/PER/CO/5-6/Add.1, paras. 30–38; A/HRC/WG.6/14/PER/3, para. 24.

(b) The death of Gerson Falla on 11 April 2011, allegedly as a result of torture by nine officers of the San Borja police station.

22. With reference to the follow-up information provided by the State party,²⁰ please clarify what steps have been taken to ensure that all complaints of torture and ill-treatment are investigated promptly and impartially by an independent body.²¹ In addition, please clarify whether a complaint mechanism is available to juveniles placed in the Diagnostic and Rehabilitation Centre for Youth in Lima (formerly the “Maranguita” centre).

23. Please also comment on reports about certain obstacles to investigating acts of torture, including the refusal of some prosecutors and judges to initiate investigations into offences concerning torture and the inadequate application of forensic examination procedures for the detection of injuries or death resulting from torture. Please also clarify whether the State party has a specific registry for cases of torture and ill-treatment.²²

24. Please provide information on any investigations and any disciplinary or criminal proceedings relating to the deaths of demonstrators shot by the State’s armed forces during the reporting period.²³ Please describe the measures taken to prevent the excessive use of force by State security forces during social protests and other public demonstrations.²⁴ Please provide details of the contents of Act No. 30151 amending article 20, paragraph 11 of the Criminal Code and describe the impact of the application of the principle of “benign retroactivity” by the State party’s courts.

25. Please indicate the current status of legal proceedings being carried out into the 1986 massacre at the El Frontón prison.

26. With reference to the previous concluding observations (para. 22), please provide detailed information on the results of criminal investigations and prosecutions, including the convictions and sentences imposed on members of the armed forces, police force, municipal security forces and civilian security services for attacks on lesbian, gay, bisexual and transgender persons.²⁵

27. In the light of the previous concluding observations (para. 13), please indicate whether a state of emergency has been declared during the reporting period.²⁶ If so, please state whether the declaration led to the restriction or suspension of rights and freedoms. Were there any complaints of human rights violations, including acts of torture, while it was in force? Please provide information on the resulting investigations, prosecutions, convictions, sentences and compensation ordered.

28. With reference to the previous concluding observations (para. 16), please provide updated statistical information on the investigation and prosecution of human rights violations, in particular acts of torture, including sexual violence and enforced disappearances, committed during the internal armed conflict from 1980 to 2000.²⁷ Please comment on reports that it has not been possible to establish a specialized justice system with adequate resources to investigate and prosecute such cases. What steps has the State party taken to ensure the full cooperation of the Ministry of Defence and the Armed Forces

²⁰ CAT/C/PER/CO/5-6/Add.1, paras. 5–8.

²¹ Ibid.; CAT/C/PER/CO/5-6, para. 8; CCPR/C/PER/CO/5, para. 19.

²² CAT/C/PER/CO/5-6, para. 8 (d).

²³ Ibid., para. 12.

²⁴ Ibid., para. 8; CCPR/C/PER/CO/5, para. 16; A/HRC/22/15, paras. 48, 74, 98, 116.34 and 116.53.

²⁵ CCPR/C/PER/CO/5, para. 8.

²⁶ CAT/C/PER/CO/5-6, para. 13.

²⁷ CCPR/C/PER/CO/5, para. 11 (a); A/HRC/WG.6/14/PER/1, paras. 56–63; A/HRC/WG.6/14/PER/3, para. 37; A/HRC/22/15, paras. 18 and 116.58.

with the courts?²⁸ Please provide information on any progress made in the process of exhuming, identifying and returning to the next of kin the remains of the victims of enforced disappearance.²⁹ Please also provide updated information on the progress made in implementing the Victim and Witness Assistance Programme.³⁰ What measures have been taken to address the deficiencies in witness protection and support services identified by the Ombudsman's Office?

29. With reference to the recommendations made by the Committee in its previous concluding observations (para. 15), please provide updated information on the criminal proceedings resulting from the reopening of investigations into the forced sterilization of more than 2,000 women between 1996 and 2000.³¹

30. Please comment on reports that acts of torture or ill-treatment continue to be committed in military facilities. Please provide updated information on the number of cases recorded during the period under review, including statistical information on the number of complaints, investigations, prosecutions, convictions and sentences.

31. Please indicate what measures have been taken by the State party to preclude the jurisdiction of military courts over human rights violations involving military personnel. How many criminal cases of this type have been brought before military courts during the reporting period? Has the State party considered the Committee's recommendation regarding the need to bring Decree No. 1095 into line with its obligations under the Convention?³²

Article 14

32. With reference to the request for information contained in the previous concluding observations (para. 23), and in accordance with the Committee's general comment No. 3 on the implementation of article 14 of the Convention by States parties (CAT/C/GC/3, paras. 45–46), please provide detailed information on the redress and compensation measures, including rehabilitation, ordered by the courts and actually provided to victims of torture or their families since the consideration of the previous periodic report. This information should include the number of requests made, the number granted, the amounts awarded and those actually paid in each case. Please comment on reports about the low amounts of compensation awarded and delays in payment.

33. In the light of the previous concluding observations (para. 18), please provide information on any ongoing reparation programmes, including those providing for the treatment of trauma and other forms of rehabilitation made available to victims of torture and ill-treatment, and on the allocation of adequate resources to ensure the effective operation of such programmes.

34. With reference to the follow-up information provided by the State party, please provide updated information on reparation programmes developed as part of the Comprehensive Reparations Plan for victims of the violence that occurred between May

²⁸ CCPR/C/PER/CO/5, para. 11 (e); A/HRC/WG.6/14/PER/3, para. 35.

²⁹ CCPR/C/PER/CO/5, para. 11 (c); A/HRC/WG.6/14/PER/1, paras. 32–34; A/HRC/22/15, paras. 70 and 116.59.

³⁰ A/HRC/WG.6/14/PER/1, paras. 73–75; A/HRC/22/15, para. 28.

³¹ CCPR/C/PER/CO/5, para. 13; A/HRC/WG.6/14/PER/3, para. 38; A/HRC/22/15, para. 116.56.

³² A/HRC/WG.6/14/PER/1, para. 36; A/HRC/WG.6/14/PER/3, paras. 36 and 45; A/HRC/22/15, paras. 20 and 118.2.

1980 and November 2000.³³ Please indicate the resources allocated for the implementation of this plan. Please comment on reports that point to delays in implementing the Individual Economic Reparation Programme, the low amount of compensation awarded to victims of torture and their families, the exclusion of a considerable number of beneficiaries from the Educational Reparations Programme following its reform in 2011, alleged irregularities in the Collective Reparations Programme and the absence of a specialized programme for the full rehabilitation of torture victims.³⁴ Please also explain why the Central Register of Victims was closed on 31 December 2011.

Article 15

35. Please provide examples of any cases that have been dismissed by the courts because of the use of evidence or testimony obtained through torture or ill-treatment.

Article 16

36. According to information before the Committee, acts of cruel, inhuman or degrading treatment or punishment are not classed as offences under the Criminal Code and are therefore prosecuted as an abuse of authority. Please comment on this information in the light of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, in particular paragraph 3 thereof.

37. Please evaluate the effectiveness of the measures taken to protect journalists and human rights defenders from any acts of intimidation or violence that they may face in the course of their activities.³⁵

38. Please indicate the measures taken to ensure that corporal punishment of children is explicitly prohibited in all settings, in particular in the home, childcare facilities, reception centres and places of detention for juveniles.³⁶

39. What concrete measures have been taken within the framework of the National Strategy for the Prevention and Eradication of Child Labour 2012–2021?³⁷ Please provide information on the content and implementation of the second National Plan to Combat Forced Labour.³⁸

40. Bearing in mind the request for additional information submitted to the State party by the Rapporteur for follow-up to concluding observations on 23 April 2014, please indicate the measures taken to follow up on the recommendations made by the Committee (para. 15) and other treaty bodies in relation to reproductive rights and health, including with regard to the decriminalization of the voluntary termination of pregnancy in cases of rape or incest.³⁹ Please indicate the legislative and administrative measures taken by the State party to ensure effective access to therapeutic abortion.⁴⁰ In particular, please indicate

³³ CAT/C/PER/CO/5-6/Add.1, paras. 48–58; A/HRC/22/15, paras. 26 and 116.60 to 116.63.

³⁴ CCPR/C/PER/CO/5, para. 12.

³⁵ A/HRC/WG.6/14/PER/3, paras. 44 and 45; A/HRC/22/15, paras. 54, 107 and 116.72.

³⁶ CAT/C/PER/CO/5-6, para. 20; A/HRC/WG.6/14/PER/3, para. 29; A/HRC/22/15, paras. 89, 99, 112, 116.9 to 116.13 and 116.50.

³⁷ CCPR/C/PER/CO/5, para. 23; A/HRC/WG.6/14/PER/1, paras. 49–54; A/HRC/WG.6/14/PER/3, paras. 30–31; A/HRC/22/15, paras. 24, 54, 71, 82, 86, 87 and 116.43 to 116.47.

³⁸ A/HRC/WG.6/14/PER/1, para. 136; A/HRC/22/15, paras. 39, 71, 116.43 and 116.48.

³⁹ CAT/C/PER/CO/5-6/Add.1, paras. 39–47; CCPR/C/PER/CO/5, para. 14; A/HRC/22/15, para. 77.

⁴⁰ CEDAW/C/50/D/22/2009.

the expected date of approval of the guide to the provision of comprehensive care in the event of voluntary termination of pregnancy for therapeutic reasons.

Other issues

41. Please provide updated information on the measures taken by the State party to respond to threats of terrorist acts and please describe whether, and how, these measures have affected human rights safeguards, in law and practice, and how it has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005).⁴¹ Please describe the relevant training given to law enforcement officers, the number and types of convictions handed down under such legislation, the legal remedies available to persons subject to antiterrorist measures, whether there are complaints of non-observance of international standards and the outcome of those complaints.

General information on other measures and developments relating to the implementation of the Convention in the State party

42. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report that implement the provisions of the Convention or the Committee's recommendations. This may include institutional developments, plans or programmes, including resources allocated and statistical data, or any other information that the State party considers relevant.

⁴¹ S/2002/52, S/2002/1085, S/2003/896 and S/2004/589.