



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

Distr.
GENERAL

CAT/C/PER/CO/4
25 July 2006

ENGLISH
Original: SPANISH

COMMITTEE AGAINST TORTURE
Thirty-sixth session
1-19 May 2006

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture

PERU

1. The Committee considered the fourth periodic report of Peru (CAT/C/61/Add.2) at its 697th and 699th meetings, held on 2 and 3 May 2006 (CAT/C/SR.697 and 699), and at its 718th meeting, held on 16 May 2006 (CAT/C/SR.718) and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the fourth periodic report of Peru. The Committee appreciates the constructive dialogue it had with a representative high-level delegation and expresses its appreciation for the frank and direct written and oral replies to the Committee's questions.

B. Positive aspects

3. The Committee commends the State party on the significant progress achieved during the past five years. In particular, it warmly welcomes the work of the Truth and Reconciliation Commission and the report submitted to the President of the Republic in August 2003, containing a series of recommendations to promote the principles of justice, truth and reparation by means of institutional reforms and measures to recognize and compensate victims. The Committee particularly wishes to commend the Comprehensive Plan for Reparation and underlines the importance of the fact that adequate resources are being allocated to the implementation of those recommendations.

4. The Committee takes note of the increasing number of investigations into complaints of torture.
5. The Committee congratulates the Office of the Ombudsman on its work in following up complaints of torture.
6. The Committee notes with satisfaction the references made by the Constitutional Court and the Supreme Court to international and regional human rights standards in their opinions on the competence and jurisdiction of the military criminal justice system.
7. The Committee notes with satisfaction the Constitutional Court's recognition of the right to the truth as a fundamental right in cases of forced disappearance.
8. The Committee notes with satisfaction the creation of a special subsystem of criminal justice to deal with torture, with its own prosecutors' offices and other specialist bodies.
9. The Committee takes note of the adoption of the Refugee Protection Act in December 2002, incorporating the right to non-refoulement as provided for in the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, which reinforces the fulfilment of obligations under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
10. The Committee notes with satisfaction the declaration made by the State party in 2002 under articles 21 and 22 of the Convention.
11. The Committee also welcomes the State party's ratification of the Rome Statute of the International Criminal Court on 10 November 2001, the Inter-American Convention on Forced Disappearance of Persons on 8 February 2002 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 14 September 2005.

C. Subjects of concern and recommendations

Persistence of complaints of torture and cruel treatment

12. The Committee takes note of the decline in the number of complaints of police torture submitted to the Office of the Ombudsman during the period 1999 to 2004. Nevertheless, the Committee is concerned that complaints continue to be received against officials of the national police, the Armed Forces and the prison system. It is also concerned that complaints of torture and cruel treatment continue to be received in respect of recruits on military service.

The State party should take effective steps to prevent torture in any territory under its jurisdiction. The Committee reminds the State party of its obligation to investigate promptly, impartially and thoroughly all complaints submitted and to ensure that appropriate penalties are imposed on those convicted and that reparation is made to victims.

Office of the Ombudsman

13. The Committee acknowledges the important role played by the Office of the Ombudsman in the promotion and protection of human rights in Peru, and draws particular attention to its role in the inspection of places of detention. The Committee expresses concern at the frequency with which the authorities fail to comply with their obligation to cooperate with the Office of the Ombudsman and at the State party's failure to implement its recommendations.

The State party should take the necessary steps to support the work of the Office of the Ombudsman, including by widely disseminating information on its terms of reference and by implementing its recommendations.

National registry on complaints of torture and other inhuman treatment

14. The Committee takes note of the delegation's statement concerning the Office of the Ombudsman's registry; it considers, however, that the State party should supplement this with a registry at the Public Prosecutor's Office.

The State party should establish a national registry for all complaints received from alleged victims of torture or cruel, inhuman and degrading treatment, as stated in the Committee's concluding observations in 1999 (A/55/44, paras. 56-63).

States of emergency

15. The Committee is concerned at the frequency with which states of emergency are proclaimed and at reports of abuses on the part of the police and the Armed Forces occurring during such exceptional circumstances.

The State party should confine the proclamation of states of emergency to situations where it is absolutely necessary and scrupulously comply with its human rights obligations during such periods, in accordance with article 2, paragraph 2, of the Convention.

Prompt and impartial investigation (arts. 4, 13)

16. The Committee recognizes the State party's progress in repealing amnesty laws and bringing criminal proceedings against army and police officers for acts of torture. The Committee remains concerned, however, at the excessive length of such proceedings and regrets that the jurisdiction of the military criminal courts is not exercised in accordance with the international human rights obligations entered into by Peru in accordance with the Convention.

The State party should:

(a) Guarantee the prompt, impartial and thorough investigation of all reports of acts of torture and ill-treatment and forced disappearances perpetrated by agents of the State. Such investigations should not be carried out by the military criminal justice system. If charges of torture are brought, the accused should be

suspended or transferred for the duration of the investigation to avoid any risk of interference with the enquiry. The Committee recalls that the Armed Forces and police are obliged to cooperate in investigations by the ordinary courts;

(b) Bring the perpetrators to trial and impose suitable penalties on those convicted, in order to ensure that no act of this kind is left unpunished;

(c) Ensure that the Public Prosecutor's Office and the forensic medical institute have sufficient resources of their own and that their staff are provided with appropriate training to enable them to carry out their duties.

Training of officials (art. 10)

17. The Committee recognizes the State party's efforts to improve the training of justice administration officials. It is nevertheless concerned that justice officials and medical staff are still not sufficiently trained to detect cases of torture and cruel, inhuman and degrading treatment, particularly in the context of pretrial detention.

The State party should extend training programmes dealing with the obligations imposed by the Convention for police, army and prison officials and for prosecutors, particularly as regards the correct classification of cases of torture. It is also recommended that it should develop training programmes for medical personnel assigned to the detection of cases of torture and also for persons involved in the treatment and rehabilitation of torture victims.

Conditions in detention centres and prisons (arts. 1, 11, 12, 16)

18. The Committee is concerned at the continuing reports of torture and ill-treatment occurring in places of pretrial detention and prisons. It is also concerned at over-population and overcrowding within the prison system and at the lack of medical personnel and of court-appointed counsel to conduct public defence proceedings.

The State party should take urgent steps to reduce overcrowding in prisons and give priority to improving access to medical staff and court-appointed counsel.

19. The Committee takes note of the information provided on the closure of Challapalca prison, but regrets that Yanamayo prison has not been closed despite the Committee's explicit recommendation following its article 20 inquiry in 1998. The Committee is also concerned that the maximum-security prison administered by the Navy at El Callao naval base is still being used for ordinary prisoners.

The State party should close Yanamayo prison. It should also ensure that responsibility for all civilian prison facilities lies with civil and not military authorities. Lastly, the State party should implement its National Plan for the Treatment of Prisoners.

Intimidation and threats

20. The Committee expresses concern over the allegations it has received of reprisals, intimidation and threats against those who report acts of torture and ill-treatment, and at the lack of effective mechanisms to protect witnesses and victims. The Committee regrets that human rights defenders who have cooperated with the Truth and Reconciliation Commission have been subjected to threats.

In accordance with article 13 of the Convention, the State party should adopt effective measures to ensure that those who report acts of torture or ill-treatment are protected from intimidation and possible reprisals for making such reports. The State party should investigate all reports of intimidation of witnesses and should set up an appropriate mechanism to protect witnesses and victims.

Reparations

21. The Committee recognizes the advances made in respect of protecting the right to reparation for victims of torture or cruel, inhuman and degrading treatment, including all those resulting from the work of the Truth and Reconciliation Commission, whose reports are gradually being dealt with by the courts. Despite the significant progress made in the area of reparations, however, the Committee regrets that the recommendations of the Truth and Reconciliation Commission have not been properly implemented, notably in respect of vulnerable groups.

The State party should implement the recommendations of the Truth and Reconciliation Commission in order to halt the consequences of violence and break with the impunity of the past. With respect to reparations, the State party should pay due attention to gender aspects and to the most vulnerable groups, especially indigenous peoples, who have borne the brunt of the violations.

22. The Committee emphasizes the obligation to provide compensation to victims in all convictions for acts of torture handed down by domestic courts. The Committee is concerned at the fact that reparation awards are frequently derisory. It is also concerned at the State party's delay in complying with reparation awards made in a number of judgements of the Inter-American Court of Human Rights and in decisions of the United Nations Human Rights Committee concerning offences of torture and other cruel, inhuman and degrading treatment.

The State party should ensure that, in all cases where it has been found liable for acts of torture and other cruel, inhuman and degrading treatment, it fulfils its obligation to provide adequate compensation to the victims.

Cruel, inhuman or degrading treatment

23. The Committee is concerned at reports of women undergoing involuntary sterilization. It has also been informed that medical personnel employed by the State denies the medical treatment required to ensure that pregnant women do not resort to illegal abortions that put their lives at risk. Current legislation severely restricts access to voluntary abortion, even in cases of

rape, leading to grave consequences, including the unnecessary deaths of women. According to reports received, the State party has failed to take steps to prevent acts that put women's physical and mental health at grave risk and that constitute cruel and inhuman treatment.

The State party should take whatever legal and other measures are necessary to effectively prevent acts that put women's health at grave risk, by providing the required medical treatment, by strengthening family planning programmes and by offering better access to information and reproductive health services, including for adolescents.

24. The Committee requests the State party in its next periodic report to provide information in accordance with the guidelines on the presentation of periodic reports, including data on complaints of torture or cruel, inhuman or degrading treatment submitted to any authority, in order to avoid conflicting information and to facilitate the work of the Committee, enabling it to gain a clearer view of the situation regarding protection against torture.

Such information should include:

(a) **The sex and the ethnic and geographical origin of victims of acts covered by the Convention;**

(b) **The positions occupied by the accused and the units they belong to, as well as details of their suspension from duty during the investigation;**

(c) **The jurisdiction under which investigations were conducted and any penalties or acquittals decided;**

(d) **Reparation made to victims, including compensation and rehabilitation.**

25. **The Committee recommends that the State party should extensively disseminate, including in the indigenous languages, the reports it submits to the Committee, as well as the Committee's conclusions and recommendations, through the mass media, official websites and non-governmental organizations.**

26. **The Committee urges the State party to consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

27. **The Committee requests the State party to inform it within one year of practical steps taken to follow up the recommendations contained in paragraphs 14, 15, 16, 20 and 22.**

28. **The State party is invited to submit its next periodic report, which will be considered as the sixth periodic report, by 5 August 2009 at the latest, the scheduled date for the presentation of the sixth periodic report.**
