Torture and ill-treatment as a violation of Economic, Social and Cultural Rights in Peru

Alternative report to the Committee on Economic, Social and Cultural Rights for the consideration of the second-fourth periodic report of Peru

Introduction

The present report seeks to illustrate how acts of torture and ill-treatment in Peru constitutes a violation of the right to health and simultaneously causes negative effects on the enjoyment of a wide range of other economic, social and cultural rights in the country.

The internal armed conflict in Peru that took place from 1980 to 2000 between government forces and the subversive groups Sendero Luminoso and the Movimiento Revolucionario Túpac Amaru (MRTA) claimed an estimated number of 69.260 victims according to Peru's Truth and Reconciliation Commission (TRC). During the conflict, the use of torture by both sides was widespread.

The investigations of the TRC has further concluded that the conflict covered a larger share of the national territory than any other conflict, and caused for gross economic losses as well as destruction of infrastructure and deterioration of the productive capacities of the population. In addition to this, the TRC has established that there was a significant relationship between poverty and social exclusion and the probability of becoming a victim of violence. In other words, the majority of the victims came from the poorer segments of society, 79% came from the rural areas and 75% of the victims who died in the conflict spoke Quechua or other native languages as their mother tongue.[1]

The high number of victims of the internal armed conflict, of which many were exposed to torture, has put a heavy burden on the Peruvian health system in the aftermath of the conflict. In Peru, access to health care services for victims of torture is directly linked to the public health care system through law No. 28592, which establishes the "Integral Plan of Reparations" (Plan Integral de Reparaciónes, PIR) from 2007. Reparations in health form part of law No. 28592, "Guidelines for the Programme of Reparations in

[1] Final Report: Truth and Reconciliation Commission, Peru available at http://www.cverdad.org.pe/ingles/ifinal/conclusiones.php (visited on 13 March 2012).

Health" *(Lineamientos del Programa de Reparaciones en Salud),* these have been outlined by The High-level Multi-Sectorial Commission (CMAN)[2] which is the organ responsible for coordinating the system of reparations for persons affected by the violence that occurred in Peru between May 1980 and November 2000. Significantly, the objective of the guidelines is presented as including:

"recovery of mental and physical health, rebuilding social support networks and strengthened capacity building for personal and social development"[3]

This objective reflects positively on the recommendations made by the Truth and Reconciliation Commission (TRC), which have been used as basis for the development of PIR. Nonetheless, the implementation of PIR suffers from a number of shortfalls of which this report specifically seeks to demonstrate deficits in the implementation of the health care services that PIR prescribes.

Context of the report

This report is prepared jointly by Centro de Atención Psicosocial (CAPS) and the International Rehabilitation Council for Torture Victims (IRCT).

CAPS is a Peruvian non-profit civil society organisation, which promotes mental health and human rights based on humanitarian and scientific principles. Its purpose is to contribute to the psychosocial recovery, mental health and the wellbeing of people affected by political and social violence.

The IRCT is a health-based umbrella organization that supports the rehabilitation of torture victims and the prevention of torture worldwide. The members of IRCT comprise more than 140 independent organizations in over 70 countries who govern the work of the IRCT. Today, the IRCT is the largest membership-based civil society organisation to work in the field of torture rehabilitation and prevention.

Part of this report is based on a dissertation on the socio-economic effects of torture. The data for the dissertation derives from two months fieldwork in Peru carried out in close cooperation with CAPS. The fieldwork included in-depth interviews with more than 20 torture victims and other key stakeholders including the Peruvian Ministry of Health (MINSA) and the National Coordinator for Human Rights (Coordinadora Nacional de

[2] For more information on PIR and CMAN see: http://cman.pcm.gob.pe/ (visited on 5 March 2012).
[3] CMAN (2010): Lineamientos del Programa de Reparaciones en Salud. Original text: "la recuperación de la salud mental y física, reconstitución de las redes de soporte social y fortalecimiento de las capacidades para el desarollo personal y social".

Derechos Humanos, CNDDHH). The dissertation is available from Line Baagø-Rasmussen, Programme Officer at the IRCT, email: lbr@irct.org.

In addition the report includes observations and reporting from CAPS ongoing work with victims of torture in Peru.

Impact of torture and ill-treatment enjoyment of on economic, social and cultural rights

The present reports seeks to illustrate the close links between torture and ill-treatment and the enjoyment of economic social and cultural rights with a special focus on the right to health. The report is structured along the three following issues:

- Torture as a direct violation of the right to health
- The link between the right to health and the right to rehabilitation
- The negative effects of torture on the enjoyment of the right to health and other economic, social and cultural rights

How torture and ill-treatment is a direct violation of the right to health

The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) defines torture as:

"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity"

However, acts of torture and ill-treatment can also be examined from an economic, social and cultural rights perspective. Torture and ill-treatment causes severe mental and physical trauma on the victim. This trauma is often long lasting and may never fully disappear. It thus causes a more or less permanent condition of ill physical and mental health in the victim. Since the author of this ill-health is a State agent, it is directly attributable to the State. In this way torture and ill-treatment can be construed as the

deliberate and direct infliction of ill-health on the victim.[4] Such an act, as any other health condition that is deliberately caused by the state, must thus be categorised as a violation of the obligation to respect the right to health.[5]

The link between the right to health and the right to rehabilitation

The right to rehabilitation is a well-established element of reparation for torture and ill-treatment in article 14 of UNCAT. In the economic, social and cultural context, the Committee on Economic, Social and Cultural Rights (CESCR) has recognised the access to rehabilitative health services as being included in Article 12.2(d) of the Covenant on Economic, Social and Cultural Rights (ICESCR) and thus an integral element of the right to health.[6]

As mentioned above, torture victims suffer long lasting physical and mental trauma due to the treatment inflicted on them. This can be compared to any other health condition, which the State has a responsibility to alleviate under the obligation to fulfil the right to health. If full recovery of mental, physical and social health is to be accomplished, as set out in CMAN's guidelines for reparations in health, appropriate rehabilitation services should begin as early as possible and be of a standard that as a minimum follow the basic criteria for the right to health as outlined in CESCR General Comment no 14.[7]

The negative effects of torture and ill-treatment on the enjoyment of the right to health and other economic, social and cultural rights

Torture and ill-treatment not only impacts the victim's health, it may also impact the effective enjoyment of a wide range of other economic, social and cultural rights. Mental and physical consequences of torture may cause for the inability to study and obtain an education, if the torture took place during imprisonment, valuable years of enhancing job-opportunities and education will often have been lost. Victims with physical and mental impairments will have difficulty in getting a job as well as in performing an array of job-functions. By loosing the ability to work, victims of torture easily end up in (further) poverty, by which they may be deprived of the underlying determinants of

[4] The World Health Organisation (WHO) identifies the following examples of human rights violations resulting in ill-health: harmful traditional practices, slavery, violence against women and torture. Examples of human rights that reduce the vulnerability to ill-health are identified to be: right to information, right to education, right to food and nutrition, right to water (WHO Linkages between Health and Human Rights available at http://www.who.int/hhr/HHR%20linkages.pdf, visited on 7 March 2012).
[5] General Comment no 14 on The Right to the Highest Attainable Standard of Health, paragraph 34
[6] General Comment no 14 on The Right to the Highest Attainable Standard of Health, paragraph 17
[7] This is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

health[8] such as; safe drinking water, adequate food and nutrition, housing and education. To this comes the stigma of torture that victims carry that causes for marginalisation and inability to act socially. By causing for trauma and mental suffering, torture breaks down social networks and relations, and disrupts family ties. These social effects of torture undermine the moral fiber of a society and creates a fear that prevents effective leadership and resistance in civil societies. In this way, torture discourages citizens from engaging in public life and the fear it creates spreads throughout a victim's social network.

This causality between torture and ill-health and the enjoyment of a number of different economic, social and cultural rights confirms the indivisibility of civil and political rights and economic, social and cultural rights and highlights how the protection of human agency demands for both civil and political freedoms and positive entitlements.

The impact of torture and ill-treatment on enjoyment of economic, social and cultural rights in Peru

As elaborated above, torture amounts to an intentional infliction of ill-health. The right to rehabilitation and the right to health are established in international conventions ratified by the Peruvian State. Peru is a State Party not only to ICESCR but also UNCAT. As a response to the rehabilitation needs of the victims of violence during the internal armed conflict in Peru, the Peruvian state set up a system of reparations which includes a right to free public health care. As mentioned in the introduction of this report, access to health care services for victims of torture in Peru is directly linked to the public health care system through the Integral Plan of Reparations (PIR). The following sections outline some main components in the Peruvian health care system and system of reparations, and points to shortfalls in these systems.

The health care system in Peru

In 2009 the "Universal Assurance of Health" (Aseguramento Universal en Salud, AUS) was established through law no. 29344. AUS provides the right of every Peruvian or resident in Peru to have a health insurance, regardless of age. In other words, AUS is meant to ensure effective enjoyment of the right to health.

The institution tasked with administration of the funds for implementing this right is the "Seguro Integral de Salud" (SIS). The implementation of AUS has started with the poorest regions that suffered most from the violence during the internal armed conflict

[8] The underlying determinants include: safe drinking water and adequate sanitation, safe food, adequate nutrition and housing, healthy working and environmental conditions, health-related education and information, gender equality (Factsheet no. 3, The Right to Health, OCHCR & WHO).

(Apurimac, Ayacucho and Huancavelica). SIS is a public health care insurance directed towards the poor and vulnerable segments of the Peruvian society in general (from which most of the victims of torture in Peru come from). In other words SIS is to prioritise the most vulnerable and poor segments of the Peruvian society. Since registration with SIS requires for a qualification-process by household targeting, there are often delays in the process of obtaining certificates that entitle persons with no health care insurance to free health care services. Delays that negatively impact the availability of health care services in general. Thus, SIS is overburdened and at the same time the facility suffers from insufficient funding and organisation making the level of access to health care extremely low.

The coverage of SIS is stipulated in an Essential Health Insurance Plan (*Plan Esencial de Aseguramiento en Salud, PEAS*). This coverage is very basic. According to the Ministry of Health (MINSA) there is a supplementary scheme of health services, which one can access through letters of request. However, socio-economic status and illiteracy prevents people from the rural and remote areas to access this procedure. Furthermore, in many cases no answers are given to the requests. Often, NGOs from different regions in the country are those who push the processes so that people can access health care services. In the remote areas where there is no NGO support, the process is almost impossible.

When and if access to health care services is obtained, it is highly inadequate. For example, the diagnosis of breast cancer only triggers two sessions of treatment. In order to continue the treatment, the supplemental plan must be accessed, which is almost impossible. In relation to mental health care, the disorders included in PEA are as mentioned schizophrenia, anxiety and depression, but when it comes to providing care, a person with the diagnosis of schizophrenia will for example only get four sessions of treatment. In cases of anxiety and depression, this should in theory trigger 15-20 sessions respectively, but in practice it is reported that only up to four sessions are given. Most often, if access to health care facilities is obtained, people are left with a diagnosis that never turns into treatment. Further, the quality of health care services is insufficient; people often experience that the medicine they need is not available or are wrongly informed that their credentials are not valid. Many report that they are receiving headache pills as treatment when arriving at the hospital.

The system of reparations in Peru

The Council of Reparations (Consejo de Reparaciónes) has been created and mandated to form the "only victims registry" (Registro Unico de Victimas, RUV).[9] The Council of Reparations is hereby responsible for accrediting the victims and beneficiaries who register at the RUV. RUV is a public national body, which applies to all persons affected

[9] For more information on the RUV see: http://www.ruv.gob.pe/registro.html (visited on March 7 2012).

by the violence that occurred in Peru between May 1980 and November 2000. It is established under the auspice of Law no. 28592, which also constitutes the Integral Plan of Reparations in Peru (PIR). An RUV accreditation is a precondition for accessing the system of reparations. In other words, with an RUV accreditation, persons who have been affected by the violence may exercise their right to access programmes of reparations implemented by the state. This said, the accreditation from the RUV may take many months to obtain and some victims never obtain their certificates for unknown reasons.

As per Decreto 051 which is currently being disputed in Peru, victims who register in 2012 will have no right to individual economic reparations, neither will victims who have registered before 2012 but who have not yet gained their certificate from the RUV.

PIR includes reparations in health, as outlined in CMAN's "Guidelines for the Programme of Reparations in Health" *(Lineamientos del Programa de Reparaciones en Salud)*. This programme describes a comprehensive intervention including public health care services, programmes in mental and community health focusing on the regions where the majority of victims of the conflict live, and clinical as well as social attention. However, its implementation remains to be seen.

The public health care services of the reparations in health are linked to SIS, which as described above, suffers from a number of shortfalls causing for an array of complications for victims of torture to access much needed mental and physical health care services. Thus, while it is encouraging that Peru has set up a system of reparations, the proper implementation of this system has encountered and array of barriers that are not properly attended to.

According to CESCR General Comment no 14, the following interrelated and essential elements apply in the implementation of the right to health: *availability, accessibility, acceptability* and *quality.*[10] Fieldwork observations and interviews with torture victims and other key stakeholders on the ground, carried out in Nov - Dec 2010, indicate that issues of availability and accessibility are among the most significant barriers to the effective enjoyment of the right to health. The following sections will further analyse these barriers.

Lack of funding

The public hospitals in Peru do not receive adequate funding and are therefore not capable of attending to the needs of all patients. The Peruvian hospitals are not pre-paid by the state but are to be reimbursed by the end of the year. However the re-imbursement is insufficient to cover the costs. As a means to solve the problem the

[10] General Comment no 14 on The Right to the Highest Attainable Standard of Health, paragraph 12.

hospitals seek to reduce the number of attended persons as much as possible and end up discriminating persons depending on their cultural background and socio-economic status.

In-adequate standards of mental and physical health care services

The general hospitals in Peru are reluctant to hospitalise patients with psychiatric problems. This is due to a generalised stigmatisation of persons who suffer from mental health problems. In Peru mental health is to a large extend understood as craziness with the result that the hospitals are afraid they can become subjected to aggression from this group of patients.[11] In the light of these observations combined with the limited treatment of depression, anxiety and schizophrenia as outlined above, torture victims suffering from mental health problems have highly restricted access to mental health care.

In relation to physical health care facilities, hospitals often lack equipment that are crucial for detecting inner fractions caused by torture, Alma's case provides for an example. Alma is in a wheel chair. She is paralysed in the lower part of her body and therefore has trouble getting to her therapy. She goes to different clinics; in order to access one of them she has to get to the second floor; something which is difficult for her due to her physical condition:

In order to be able to move around better, Alma needs a walker. However in order to be eligible for one she has to get a MRI to determine the prognosis of her illness. At the hospital they do not have the equipment for conducting MRI's and where she goes for therapy she needs to pay for it herself, something neither she nor her children have enough money to do. Moreover, SIS does not cover MRI scans, so even if the hospital near Alma had the equipment she would still have to pay for it.

Discriminatory practices

The SIS policy; "SIS benefits and rights", stipulates the right not to be rejected or discriminated against by health facilities due to socio-economic conditions or race, age, sex etc. However, the first thing victims of torture and violence need to do in order to access health care services is present themselves as victims of violence through their RUV certificate. When doing this, they are often stamped as "terruco" (terrorists) and separated from the line. They have to wait longer than other persons and often have to deal with other discriminatory practices before they are attended to.

[11] Interview with Manuel Escalante and Rita Uribe, MINSA, 23 November 2010.

For these reasons, accessibility to health care often comes to depend on other measures; for example whether the victim can pay in order to get access sooner than others or whether he/she has contact to an influential person or NGO through which he/she can push for medical attention. Quoting one of the interviewed victims:

"The state has been diverting us from SIS, so the first thing I did was to go and fight. They saw me because I was working with the community, so they handled my case quickly. But there are many others that they haven't accepted"

Further to this, Quechua speaking victims coming from the rural areas are often discriminated on the basis of their cultural background. An exemplary case in this context is the case of Maria.

Case of Maria

Maria is originally from Ayacucho. Her first language is Quechua although she speaks fluent Spanish by now. She was four months pregnant when she was imprisoned under the false accusation of being a terrorist. Due to the torture and maltreatment she was exposed to, she lost her child and suffered from a gynaecological infection, which lasted until she was released seven years later. After her release she has had many health-related problems; at the time of our interview with her, she had cancer and urgently needed a gall bladder operation after having been wrongly diagnosed several times. Nonetheless, she was told that the operation could not be done immediately, and that she would have to pay for the cost of the operation including the medicine. In other words her membership in the RUV and consequent access to SIS did not help her. In order to get assistance Maria contacted one of the leaders of a local NGO - Reflexión, and called the social worker at CAPS who put pressure on SIS in order for her to access some degree of health care. This resulted in a more reasonable price and a quicker operation.

Due to their cultural background and socio-economic circumstances, the voice and claims of the victims is often not enough for them to access proper health care, as Carla explains when asked why she has not made a denunciation of SIS which has continuously refused to treat her for two years:

"I should do it! It's the same with SIS, I should do it, but I don't have the strength … I don't have the strength. My health, in order to take more pills I would need an amount of money that I don't have, what I have I need to ration for my son's commute, so I can't! My physical situation, my economic possibilities"

The socio-economic impacts the effects of torture have had on her impede Carla's ability to denounce. Due to the lack of proper state care, the victims have come to depend on

contacts to institutions such as CAPS, where the social worker plays a crucial role in pulling strings to motivate the hospitals to perform.

Physical and economic impairments to access health care

In the rural and remote areas of Peru, access to health care is highly inadequate; the health care facilities there can only assist with minor injuries and diseases. Further, the remote areas of Peru lack health professionals including psychologists to attend to the affected communities. In order to receive proper treatment it is necessary to travel to Lima. This makes access to health care dependent on the ability of the victims to pay for the travel, as well as them being in a physical state where they are able to travel. Persons with disabilities or physical injuries hampering their mobility are unable to reach rehabilitative health facilities.

During interviews, representatives of the Ministry of Health in Peru (MINSA)[12] and CMAN acknowledged the lack of health professionals and accessible and available health care in the remote and rural areas in Peru, which is a well-known issue also among NGOs[13] and noted in CMAN's guidelines for reparations in health. Peru lacks in particular psychologists and professionals capacitated in mental health and few are willing to move from Lima to the remote areas of Peru. The centralisation of health professionals in Lima and their absence in the regions means that many torture victims cannot access much needed psychological and medical assistance.

It reflects a paradox that the ones who need physical therapy are also the ones who have most difficulties in accessing therapy. This is when their physical condition is so grave that they have trouble mobilizing themselves. This also links to socio-economic factors such as lack of money to pay for transportation, and living at a distance from the therapy clinics.

The physical and psychological impairments caused by torture compromise victims ability to access health care, even when available from other institutions than the state i.e. NGOs. While Alma has been able to get physical therapy support, she has not received any psychological support, mainly due to the fact that she has so much difficulty moving even to get to the physical therapy sessions. Alma's situation is known by CAPS, but her critical condition makes it difficult for CAPS to help her, as they do not have the capacity to attend to her specific needs. This is but one consequence when NGO's must take over because the state is not providing adequate support.

Carla receives intensive physical therapy due to the damages the torture has given her; about three months before she was interviewed, she was not able to walk. In 2004, she

[12] Interview with Manuel Escalante and Rita Uribe, MINSA, 23 November 2010.
[13] Interview with Victor Alvarez, CNDDHH, 6 December 2010.

had an operation and after that she spent two years trying to get assistance from the public system for physical rehabilitation. After being informed about the organisation from a friend she met in prison, she went to CAPS who referred her to a clinic for physical therapy.

Although it is still difficult and highly painful for her, the physical therapy has made it possible for her to walk aided by a cane. At the beginning of her therapy she was transported from her house (about one and a half our with public transport from the centre of Lima), to a clinic, with which CAPS cooperates. However, the bumpy drive home from the therapy exposed her back in a way that she would often be in a worse physical condition when returning home from the therapy. For this reason, the social worker at CAPS arranged for her to be able to receive therapy closer to her home, and since then she is, as described by herself *"in a process of rehabilitation which goes quite slowly, quite, quite slowly"*. Her whole life circles around rehabilitation and painkillers:

"My time is very busy; today I didn't go to therapy. I didn't go because I had to come here. I got here because of my pills. Getting here hurts, so before leaving home to get here I took my pills… and that's how I get by. I get back and eat and go to bed"[14]

Apart from showing difficulties related to physical access, the story of Carla stresses the importance of providing immediate and adequate physical therapy; had she gotten proper medical attention when she first requested it two years ago, she most likely would have been in better circumstances today. This illustrates another consequence of the failure of SIS to attend to her. Carla requested health care, which she is entitled to through her RUV certificate but she is still waiting for the certificate after almost a year. Nonetheless, the fact that Carla now has improved so she is able to move around, although it causes her pain, makes it possible for her to attend psychosocial therapy at CAPS. The aim is for her is to improve her health in order for her to get a job:

" ..I think that by improving my health I can get in better conditions… better condition to be able to work, how can I put it… I don't know, until now I've met closed doors everywhere, but one always has to be hopeful. If I hadn't gone to therapy I would be at home and leaving my body there dormant, dormant, you know. I'm doing everything I can for my rehabilitation"[15]

In the two cases examined above, physical access to therapy becomes difficult in a paradoxical manner; the fact that Alma and Carla need physical therapy makes it harder

[14] "Tengo el tiempo bien ocupado. Hoy día no he ido a mi terapia, no ido por que tenía que venir acá. He venido acá con mis pastillas…Venir acá a mi me causa dolor, entonces antes de salir de mi casa hasta acá me tomo mis pastillas... y ya más o menos regreso y como y a la cama (Carla 291-294)".

[15] "..yo creo que mejorando mi salud puedo estar en mejores condiciones (….) mejores condiciones para poder trabajar, pero como te digo…. No sé, hasta ahora en todas partes me han cerrado las puertas, pero una siempre tiene que tener esperanza, si no he ido a mi terapia, estaría en mi casa para que mi cuerpo se sigua ahí durmiendo, durmiendo, no. Yo estoy poniendo todo de mi parte para mi".

for them to access it because of their grave physical condition and lack of capital to proper transport.

The effects of torture upon the enjoyment of the right to work and education

Many victims continue to suffer from physical impairments directly caused by the torture they experienced. This significantly impacts their abilities and possibilities of obtaining and maintaining a job. Francisco who previously worked as a chef now has trouble speaking as well as using his left hand:

"It's like I'm drunk. Because I don't have any money I can't see a doctor and what I was before was something very different. Even my way of talking is very different. I can't even write, now I have to do it with the left. I used to be a cook! Before it happened to me I had a small restaurant business … but while … I lost everything"[16]

Francisco clearly expresses how his ability to do the work he used to do has been impaired by the physical consequences of the torture to which he was subjected. The impairment makes it exceedingly difficult for him to get a job and although he does receive pension from the state, it is not nearly enough to cover his living expenses. He lives in a half built house and has a few chickens and turkeys; in his own words when we entered his home, he lives *"with and like an animal".*

Another case is Franz who is disabled as a result of the torture he has been exposed to; when he was arrested, he was tortured by the military to an extent that his back has never fully recovered and now he is unable to walk without a crutch. He would like a job, but he cannot stand up for very long:

I: So the biggest change is that you don't have a job?

IP: Exactly. I'd like to work, but I can't work. If I feel strong, I know I can work, at least sitting down, you know? Because … in any, in a shop, I can work. As cashier, as receptionist. There are many ways for us to be able to work, but unfortunately I've just been here. For us there isn't for the disabled - we don't have those possibilities to work. For us there is nothing, not even the state [cares][17]

[16] "Ando como un borracho, como no hay plata no se puede ir a un médico y lo que era antes es muy diferente. Porque hasta la manera de hablar es muy diferente. No puedo ni escribir, ahora con la izquierda. ¡Yo era cocinero! Pero antes de caer de esto tenía una empresa (restaurante), yo era (…) pero cuando durante (…) perdí todo (...) (Francsico 8-11)".

[17] I: ¿Entonces la brecha más grande que encuentras es que no tiene trabajo?

Anna, when asked what type of help she would most need, if she could request any kind of help, replies: "*something that would give me a job*". She has only had a technical career and believes that if she had a proper profession she might be able to get a well-paid job and give her children an education. The hope of being able to give their children a proper education is a common feature in most of the interviews and indicates how the lack of functionality is also important at the level of social relations; the victims do not only want to be useful for society but clearly also worry for their children and family.

Technological advances that have occurred while the victims have been imprisoned also create obstacles for their ability to compete for jobs. Carla lives with her mother and her son, and would like to study again. She studied at the university when she was imprisoned, and now she is disabled as a consequence of the torture and can hardly walk. Even so, she finds that computer-related studies are something she would be able to do but as she expresses it herself there are challenges to this:

"It has been six years [in prison] and I do not know how to download a file, I do not know. My son knows, I do not know"[18]

While she is aware that she does not have the capacity and skills to undertake a computerised job her physical state of health does not discourage her from believing she could get a job if only she had the skills i.e. for doing computerised work, which would allow her to sit still.

Franz who, as mentioned above, is also disabled as a consequence of the torture finds himself in a similar situation. He explains how he was selected as one of twenty-five among one hundred and seventy persons for a sales-job in a telephone-company. He passed all the tests needed until they asked him to manage a computer:

"I passed everything and they send me to the computer and then - I don't know how to use the computer. I know but only little things, you know? But not enough to save a file

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IP: Exactamente, yo quisiera un trabajo, pero no puedo trabajar. Yo si me siento fuerte, yo sé que sí puedo trabajar al menos sentado, no? Porque……. En cualquier, una tienda, yo puedo trabajar, un cajero, recepcionista…hay muchas formas para nosotros para ir trabajar, pero lamentablemente he estado acá. Para nosotros no, para los discapacitados no tenemos esas posibilidades de poder trabajar. Nada ni de estado para nosotros.

[18] "Hace seis años y no sé bajar un archivo, no sé. Mi hijo sabe, yo no sé."

or write that many things (…) Everything had gone well but what can I do (...) I need to know how to use a computer"[19]

The case-examples given here illustrate how the effects of torture not only affect the enjoyment of the right to health. The physical, mental and social scars of the torture also negatively impact the enjoyment of the right to work and the right to education for the victims. This "domino-effect" of rights violations that cause the effects of torture to continue, is reflected in the following comment from Carla:

"Because I think that everything that has happened can't be left at that. I mean, I had been working, I was healthy, I got together with someone to make a family, I worked … just like you, and then overnight you are in jail, and twelve years pass and you get out in a bad condition. Many people tell me: "but it's over now", but for me it is not over"[20]

The immediate effects in terms of physical and psychological pain become long-term effects in themselves and change the ability for victims of torture to sustain her life and livelihood, and thereby impacts on a range of other economic, social and cultural rights.

Conclusion

While good efforts have been made to set up a system of reparations in Peru, this report identifies a number of barriers with respect to its implementation. This in particular with respect to the lack of availability and accessibility for torture victims to much needed mental and physical health care services. Torture victims experience increased difficulty in accessing their rights due to socio-economic, social and cultural impairments caused and aggravated by the act of torture. In other words, torture (intended infliction of ill-health) impacts upon a range of economic, social and cultural rights. The social institutions that should enable access to health care in Peru are precarious and cause for a continuous spiral of violations by stigmatising the victims thereby prolonging the social and socio-economic effects of torture.

[19] "Todo pasó, y me mandan a la computadora y ahí, no sé manejar la computadora. Si sé, pero algunas cositas, no? Pero no pues para guardar un documento, escribir tantas cosas. Todo había pasado bien, pero que puedo hacer yo (….) si necesito manejar computadora (Franz 255-260)".

[20] "Porque yo pienso que todo lo que he pasado, no puede quedar así. Ósea yo estuve trabajando, yo era sana, yo me junté con una persona para formar una familia, yo trabajaba… así como tú, y de la noche a la mañana estás presa, y 12 años y sales mal. Mucha gente me dice "pero ya pasó", pero para mí no ha pasado (Carla 231-235)".

Recommendations

In order to improve the situation in Peru with regards to the shortcomings analysed in this report, CAPS and the IRCT suggest that recommendations are made to the government of Peru on the following issues:

- Increase funding to the public health care system so that hospitals are able to care for all patients and provide for adequate standard of health care services including medicines and availability of necessary medical equipment without discrimination
- Increase the effort on decentralisation of health care services so that they extend to the remote and rural areas of Peru. This is particularly important in relation to mental health services
- Ensure that health services are effectively accessible regardless of physical, economic or other capabilities of the recipient. This is particularly important for victims of torture and ill-treatment who often suffer from severe and complicated physical and mental health problems combined with a difficult socio-economic situation.
- Amend Decreto 51 so that victims who register in 2012 have access to reparations on equal level with other victims.
- Ensure a speedy accreditation of RUV certificates without delay, prejudice or discrimination.
- Improve the quality and availability of health care services to include proper follow-up after a diagnosis has been given in particular in cases of mental health disorders
- Compensation determinations must give adequate consideration to the long-term economic losses and the significant physical and mental suffering experienced by many victims of torture in Peru.
- Torture survivors have special health care needs and are at the same time in a position of increased vulnerability due the negative impact of torture on the enjoyment of the right to health and other economic, social and cultural rights. If full recovery of mental, physical and social health is to be accomplished, an effective reparations scheme that ensures timely interventions must be in place. The current scheme, which takes no special measures to ensure accessibility for victims of torture and ill-treatment creates a situation of de facto discrimination. The Peruvian state should therefore ensure that special measures are taken to ensure that victims of torture and ill-treatment have effective access to adequate services. Considering that their ill-health was caused by the State this should ideally be done through a comprehensive reparations programme tailored to their needs.