



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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23 April 2014

Excellency,

As Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture (“the Committee” or CAT), I am writing regarding the examination of the combined fifth and sixth periodic reports of the Government of Peru (CAT/C/PER/6) reviewed at the 49th session of CAT in October-November 2012. At its conclusion, the Committee requested further information from the Government of Peru in response to the Committee’s recommendations in paragraphs 8 (a), 15 (a) and 17 (b) of its concluding observations (CAT/C/PER/CO/5-6).

On behalf of the Committee, allow me to express appreciation for your Government’s reply dated January 17th, 2014 (CAT/C/PER/CO/5-6/Add.1) regarding those recommendations. I have reviewed them with care and am writing to seek further clarification, as there remain outstanding questions about their implementation.

Investigations into allegations of torture and ill-treatment - paragraph 8(a)

The Committee appreciates the information on the State party’s efforts to conduct prompt, impartial and effective investigations of all reports of torture and ill-treatment, to bring perpetrators to justice and to punish them with appropriate penalties. The Committee appreciates the clarification regarding conduct of the investigations by Special Prosecutors and the National Criminal Prosecutor’s Office and the independence of the Public Prosecution Service. The Committee would appreciate further data regarding investigations by these officials since the 2012 review. Please provide the number of allegations of torture that have been forwarded to the Public Prosecution Service since December 2012, the number of allegations investigated, and the number of investigations that resulted in prosecution.

The Committee also appreciates the information provided regarding decisions issued by the National Criminal Court in cases involving allegations of torture. The data provided indicates that during 2012 the National Criminal Division considered seven torture cases, of which one resulted in a conviction, and four resulted in acquittal, and the remaining two ended through different procedural mechanisms; and that in 2013, the National Criminal Division considered 19 cases of torture, resulting in five convictions and 14 acquittals. The Committee would appreciate further information on these cases. For each case, please provide the title and rank of the accused, a summary of the accusations, the charges against the accused, the sentence handed down in cases of conviction, and the reason for acquittal or other procedural conclusion in cases where a conviction was not obtained.

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H.E. Mr. Luis Enrique Chávez Basagoitia
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The Committee is concerned that the State party has not provided information regarding the case of Mr. Gerson Falla, who was alleged to have died in custody 48 hours after being beaten in detention. The Committee notes that media sources indicate that on April 15, 2013 a judge of the First Supraprovincial Criminal Court of Lima (Jueza del Primer Juzgado Supraprovincial de Lima) issued a report concluding that the death of Mr. Falla resulted from torture and that the report was sent to the National Criminal Chamber for its evaluation. Media reports also indicate that in September 2013 an investigation was opened concerning nine members of the police allegedly involved in Mr. Falla's death. Please provide the Committee with updated information regarding the state of this investigation including whether it is ongoing, if any charges have been filed, if any prosecutions have been initiated, and if any of the police officials involved have been disciplined or sanctioned. Please also indicate if the police officials under investigation were suspended from their duties pending the investigation.

The Committee further appreciates the information provided regarding the new code of conduct of the National Police (approved by Decree 1150 of December 2012). The Committee understands that it establishes norms and administrative procedures that focus on preventing, regulating and sanctioning offenses committed by the police. Please indicate if any police official has been subjected to disciplinary sanctions as consequence of these regulations since their adoption, and if so, for each case please provide data on the allegations against the official, the rank and title of the official, and the sanction handed down.

The Committee appreciates the information provided by the State party regarding the creation or designation of a national preventive mechanism as required by the Optional Protocol to the Convention. Please indicate if the State party has designated the Ombudsman's Office as the national preventive mechanism which the letter indicates was under consideration. Please also update the Committee on the status of the bill (*Proyecto de ley No.1618/2012-CR*) concerning the establishment and operations of the National Mechanism for the Prevention of Torture, which was set to be considered for adoption by Congress after March 2014. Please also provide the Committee with additional information regarding the structure and functions of the national preventive mechanism it contemplates, including whether it will be empowered to visit all places of deprivation of liberty, to receive complaints of torture, and to report publicly on its work and complaints received by it.

Reproductive rights and health - paragraph 15 (a)

The Committee notes the information sent by the State party about the existing legal framework governing therapeutic abortions and notes with regret that the State party has not indicated that it has encouraged Congress to amend article 119 of the Criminal Code in order to permit therapeutic abortion in cases of pregnancy resulting from rape and incest. Please provide updated information indicating if the State party has taken measures to implement the Committee recommendation.

As explained in paragraph 15 of its conclusions, the Committee is particularly concerned "that illegal abortions are one of the main causes of high maternal mortality in the State party and that the interpretation of therapeutic and legal abortion in cases of medical necessity is too restrictive and lacks clarity, leading women to seek unsafe illegal abortions." The Committee notes the information provided by the State party indicating that in April 2013, the Ministry of Justice and Human Rights sent the Ministry of Health a legal opinion regarding the adoption of a National Technical Guide to standardize criteria for the comprehensive management of voluntary, medically advised terminations with informed consent of pregnancies of less than 22 weeks' gestation. Information before the Committee suggests that the adoption of this proposed Guide has been delayed as a result of requests by the Ministry of Health for further technical opinions. Please indicate the current status of the proposed Guide, whether it has been approved and if it has not, the anticipated schedule for approval. Please also provide information any measures taken by the State to inform and educate medical staff regarding the

situations in which they are legally permitted to perform therapeutic abortion and to ensure that all women have effective access to legal abortion services without fear of punishment.

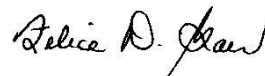
The Committee further notes with regret that the State party has not provided information regarding the measures it has taken to provide free health coverage to women in cases of rape, as recommended by the Committee. Please provide information on such measures.

Comprehensive Reparation Plan - paragraph 17 (b)

The Committee appreciates the information provided regarding the Comprehensive Reparation Plan for victims of the violence that occurred between 1980 and 2000. It notes that priority for receiving payments is no longer determined by age of the recipient. Please provide updated information on the total number of registered victims and whether the 20,000 persons whose registration was pending at the time of submission of the State party's follow-up report have been added to the Central Register. Please provide updated information on the deadline for completion of registration and identification of beneficiaries of the Reparations Program. Please specifically indicate whether the State party has taken measures to ensure that all victims of the violations committed during the period in question are able to benefit from the individual economic reparation program even if they did not meet the 31 December 2011 registration date set out in Decree No. 051-2011-PCM.

Please provide updated information on the measures taken by the State party to ensure sufficient financial and human resources for the implementation of the Comprehensive Reparation Plan, as previously recommended by the Committee. The Committee understands that pursuant to the decree governing the economic reparation programme, individual victims are each entitled to a sum of approximately \$3,700, to be distributed among spouses/partners and relatives in cases where the victim is deceased. The Committee's General Comment No. 3 indicates that redress should be tailored to the particular needs of the victim and be proportionate to the gravity of the violations committed and that compensation awarded to a victim should be sufficient to compensate for any economically assessable damage resulting from torture or ill-treatment, whether pecuniary or non-pecuniary. Please indicate whether the State party has taken measures to increase the amount of economic reparations to which victims of torture and ill-treatment are entitled, and provide information indicating the anticipated schedule for future disbursement of economic reparations pursuant to the Comprehensive Reparation Plan.

Accept, Excellency, the assurances of my highest consideration.



Felice D. Gaer
Rapporteur for Follow-Up on Concluding Observations
Committee against Torture