



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

Distr.: General
22 November 2018

Original: English

Committee against Torture
Sixty-fifth session

Summary record of the 1686th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 14 November 2018, at 3 p.m.

Chair: Mr. Modvig

Contents

Consideration of reports submitted by States parties under article 19 of the Convention
(*continued*)

Seventh periodic report of Peru (continued)



The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Seventh periodic report of Peru (continued) (CAT/C/PER/7 and CAT/C/PER/QPR/7)

1. *At the invitation of the Chair, the delegation of Peru took places at the Committee table.*
2. **Mr. Landa Burgos** (Peru) said that torture, as defined in article 321 of the Criminal Code, did not necessarily entail the obliteration of the victim's personality. Rather, the article 321 definition was in line with that contained in the Inter-American Convention to Prevent and Punish Torture, namely the use of methods upon a person intended to obliterate the personality of the victim or to diminish his or her physical or mental capacities, even if they did not cause physical pain or mental anguish. The constitutional, justice and economic committees were currently reviewing the proposal to amend the Criminal Code. On 23 October 2018 the National Commission for the Application of International Humanitarian Law had approved a special draft act to implement the Rome Statute and other human rights treaties. The draft act classified torture and ill-treatment as human rights offences, and would shortly be submitted to Congress; consideration would be given to the inclusion in the definition of the offence of torture of the specific wording contained in the Convention against Torture.
3. The principle of universal jurisdiction was enshrined in article 2, paragraph 5, of the Criminal Code, and had been taken into account in the draft act to implement the Rome Statute and other human rights treaties.
4. **Ms. Masana García** (Peru) said that, in line with article 2 (1) of the Convention and the Optional Protocol to the Convention against Torture, the Ombudsman's Office had established, and ran, the national mechanism for the prevention of torture. The budget of the Ombudsman's Office had been increased substantially between 2016 and 2018, as had the specific budget of the national mechanism for the prevention of torture between 2017 and 2018. The national mechanism's 2019 budget request had not yet been approved by Congress.
5. **Mr. Mundaca Peñaranda** (Peru) said that the national rate of prison overcrowding was 129 per cent, which was linked to the greater prevalence of pretrial detention following the crackdown on crime in Peru. To combat prison overcrowding, two legislative decrees had been enacted: Decree No. 1300 on alternatives to detention and Decree No. 1322 on the use of an electronic tagging system. The number of prison places would eventually be increased by 22,420. For example, new wings had been built in Lampa, Jauja, Cajamarca, Puno, Trujillo and Chimbote prisons, creating more than 1,500 new prison places; the construction of two "megaprisons" was planned, each housing 3,200 prisoners; and nearly 500 prison bunks had been refurbished since 2016.
6. Internal Directive No. 001-2018-INPE-DTP provided for various ways of differentiating between inmates awaiting or undergoing trial and those who had been convicted, but separating the different categories was a complex issue. High-risk prisoners were housed in special wings, and men and women were housed separately. With regard to the provision of statistics concerning young offenders, the juvenile centres' management division had been operating an informal database, which had identified additional variables to be considered when deciding on the relevant care to be given. Young offenders' sexual orientation, for example, was taken into account when sending them to a juvenile centre, but a young offender's mental or physical disabilities, or indigenous status, were not. The need for an interconnected and comprehensive system of data relating to young offenders in juvenile centres had become apparent; the resulting system was currently at the diagnostic stage, with the aim of identifying all relevant variables and monitoring any socio-educational measures implemented.
7. Modern control systems were being developed to monitor prison access and prevent prison visitors from smuggling in weapons or drugs. Measures implemented in Castro-Castro prison, for example, included biometric access control of visitors, X-ray screening of

incoming parcels and the use of metal detectors. With regard to the issue of prolonged pretrial detention, Legislative Decree No. 1322 provided for the use of an electronic tagging system for detainees awaiting or undergoing trial, at the judge's discretion. Specific actions taken included the conversion of prison sentences; training of relevant staff in alternatives to detention; and strategies to increase the number of inmates eligible for alternatives to detention. In 2018 a total of 805 inmates had benefited from such alternative measures.

8. With regard to convicted prisoners, Legislative Decree No. 1330 governed the procedure for converting prison sentences to alternative penalties, and had been applied in 177 cases between its entry into force on 31 December 2016 and December 2017. Legislative Decree No. 1332, on electronic tagging, had been applied in 17 cases since its entry into force.

9. Of the total prison population of 89,794, 84,750 were men and 5,044 were women. A total of 35,343 prisoners (33,264 men and 2,079 women) were awaiting or undergoing trial, while 54,451 (51,486 men and 2,965 women) had been convicted. Some 727 inmates nationwide were of indigenous origin. Women inmates made up 6 per cent of the total prison population and were housed in 12 special women's prisons and in separate quarters from men in 44 mixed prisons. In addition, 181 children under three years of age (95 boys and 86 girls) were housed in prisons. The National Prison Institute was working with various partners on the implementation of policies and programmes concerned with mothers in prison and early childhood development, and had signed an agreement with the Ministry for Women and Vulnerable Groups to provide quality care to children, including in the area of nutrition.

10. Yanamayo prison in Puno (150,000 inhabitants) was an ordinary-regime prison whose 739 inmates mainly came from the surrounding area. With a prison capacity of 778, it was one of the few prisons not to be overcrowded. Challapalca prison, in the province of Tarata, housed 188 high-risk inmates, but had capacity for 214, so was also not overcrowded. The prison was located 10 minutes from the district of Capaso (1,500 inhabitants). The Constitutional Court had declared in separate rulings that the existence of those prisons did not violate fundamental rights, while at the same time establishing criteria for the protection of inmates' constitutional rights.

11. While in 2017 a total of 2,413 inmates had been infected with tuberculosis, in the first half of 2018 that figure had gone down to 1,430 nationwide. Some 79.8 per cent of the cases were concentrated in prisons in the Lima region. Inmates suspected of having tuberculosis were diagnosed and treated in accordance with the relevant international rules. Treatment was provided free of charge, with support from the Ministry of Health, the Global Fund and NGOs, and inmates undergoing treatment were separated from other prisoners.

12. With regard to the problem of extortion in prisons, in 2018 various inmates had been transferred to other prisons, mostly as a security measure (1,061 inmates), but sometimes on other grounds, such as judicial orders (903 inmates), reorganization (561 inmates) and health (173 inmates). Transfers for security reasons were ordered when the inmates concerned had endangered the lives of other prisoners or prison staff or committed offences inside prison; those inmates accounted for just over 1 per cent of the total prison population. The recently adopted code of criminal responsibility for adolescents had established a number of alternatives to juvenile detention as at end October 2018, which included: restriction of freedom (66.3 per cent of cases); probation (12 per cent); community service (8.1 per cent); and warnings (1 per cent).

13. The main Chorrillos prison had an ordinary closed regime, and inmates were allowed outdoors from 6 a.m. to 5 p.m. The Chorrillos annex prison had an ordinary closed regime and a special closed regime; under the former, inmates were allowed outdoors from 6 a.m. to 5 p.m. and under the latter there were three possibilities: two, four or six hours outside a day. Importantly, even those inmates allowed outdoors for only two hours a day were housed with other inmates and could move around freely inside the prison wing from 6 a.m. to 5 p.m.

14. While there was no prolonged solitary confinement regime in Callao prison, inmates who committed a serious offence could, as in other prisons, be placed in solitary

confinement for 30 days, increasing to 45 days if the inmate committed another offence during that time.

15. **Mr. Sequeiros Vargas** (Peru) said that in Peru procedures governing states of emergency always had a sound basis and were implemented only when justified, including by situations of social unrest. During states of emergency, certain fundamental rights could be restricted or suspended, including the right to liberty and security of the person, but those affected had the right to apply for habeas corpus, *amparo* and constitutional guarantees. Two states of emergency related to social unrest were currently in force, which had been declared by Supreme Decree No. 105-2018-PCM of 25 October 2018, and Supreme Decree No. 099-2018-PCM of 29 September 2018, respectively. Eight other states of emergency in response to natural disasters were also in force, but involved no suspension of fundamental rights. Under the Constitution, states of emergency were declared by the Executive for a maximum of 60 days, but could be renewed; the renewals were the reason the impression was given that “new” states of emergency were constantly being declared in zones of unrest, and that excessive use was being made of that constitutional mechanism.

16. With regard to social protests and situations of violence in relation to the maintenance of public order, the applicable legal framework for Legislative Decree No. 1095, which established rules for the use of force by the Armed Forces, was international human rights law. The use of firearms was only permitted when there was a serious risk to life. It was therefore incorrect to state that the definition of the term “hostile group” in Legislative Decree No. 1095 could be extended to include social movements in Peru in order to criminalize social protests. In its judgment No. 022-2011-AI, for example, the Constitutional Court had found that the said term should be interpreted to mean an “organized armed group”, in line with international human rights law.

17. According to the Constitutional Court, mass demonstrations, riots, acts of banditry and social protests could not, in any circumstances, be considered to constitute “non-international armed conflict”. Accordingly, groups that engaged in such activities could not be considered “hostile groups” that might justify a military response from the State.

18. Although Legislative Decree No. 1095 provided that illegal conduct by military personnel fell under the jurisdiction of the military court system, the Constitutional Court had ruled that military courts could only try service-related offences, not grave violations of human rights such as torture or ill-treatment.

19. **Mr. Landa Burgos** (Peru) said that the investigation into the involvement of other individuals in the Gerson Falla case was currently at the oral proceedings stage before the Second National Criminal Court. In the El Frontón prison case, the Second National Criminal Prosecutor had charged 25 members of the Peruvian Navy with crimes against humanity. A sum of 5,320,000 soles had been requested in civil damages, with the Peruvian Navy considered a civilly liable third party. The hearing at the National Criminal Court had begun on 8 September 2017 and evidence was still being presented.

20. With respect to the Los Cabitos case, evidence to substantiate the appeal to overturn the original decision had been submitted on 4 September 2017. The appeal was due to be heard by the Permanent Criminal Division of the Supreme Court on 21 November 2018. Regarding the alleged aggravated homicide of Walter Johnny Arrunátegui Gómez, a ruling on the appeal lodged on 14 September 2017 was expected in the near future.

21. The Inter-American Court of Human Rights had found the Republic of Peru liable in the case of Azul Rojas Marín and had ordered the State to investigate the sexual violence offences committed in an effective and timely manner. On 23 April 2018, the criminal investigation had thus been reopened. In the Tuanama case, there had been a ruling on 14 September 2018 to the effect that, while there were grounds for charging Henry Alberto Gamboa Huamán and José Marcial Ybias Altamirano with having inflicted grievous bodily harm on Yefri Peña Tuanama, there were no grounds for bringing an indictment for torture.

22. Lastly, the fact that the Institute of Legal Medicine and Forensic Science had a shortage of doctors in no way prevented the judicial or criminal investigation authorities from applying the principles of the Istanbul Protocol with respect to the documentation of torture.

23. **Mr. Sequeiros Vargas** (Peru), turning to the available statistics on sentences handed down for crimes of torture, said that there had been two convictions in 2016, two acquittals in 2017, and no rulings thus far in 2018. Given the confusion that sometimes arose when classifying crimes of torture based on the material consequences of the act, the Government of Peru was mindful of the Committee's recommendations regarding the need to train judicial officials in how to correctly determine the nature of offences.

24. Judges and prosecutors scrupulously complied with the provision of the Code of Criminal Procedure according to which evidence obtained in violation of the core content of fundamental rights of the person was without legal effect. Neither the judiciary nor the Public Prosecution Service had any examples of cases that had been dismissed by the courts owing to the use of evidence or testimony obtained through torture or ill-treatment.

25. Having been ordered by the Inter-American Court of Human Rights to review the legality of the pardon granted to the convicted ex-President, Alberto Fujimori, the Peruvian judiciary had found, on 3 October 2018, that the pardon on humanitarian grounds lacked legal foundation and that Mr. Fujimori must serve the remainder of his sentence. As Mr. Fujimori's defence counsel had submitted an appeal, the case would ultimately be resolved by a court of higher instance. In the meantime, the enforcement judge was considering the request for a medical board to assess the state of health of Mr. Fujimori in order to decide whether he should remain hospitalized or be transferred to a penitentiary establishment.

26. **Ms. Masana García** (Peru) said that the National Human Rights Plan 2018–2021, which included five strategy lines, 150 strategic actions and 181 indicators, sought to ensure that public policies were implemented in a cross-cutting manner that complied with international standards. Three types of indicators — structural, process and results-based — had been developed to monitor the advancement of human rights in the country. Unlike previous plans, the current National Human Rights Plan 2018–2021 identified three groups that required special protection, namely lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, human rights defenders, and domestic workers. The working group to promote the rights of LGBTI persons had held two meetings since its establishment on 31 July 2018. It comprised representatives from the Ombudsman's Office, government ministries and civil rights organizations. The working group to protect the rights of human rights defenders, formed in August 2018, was developing a protocol of action and envisaged the establishment, by 2021, of a national mechanism for the comprehensive protection of human rights defenders.

27. Although the National Human Rights Plan 2018–2021 might appear to lack a prison policy that covered adults, it was important to bear in mind that the Plan intersected with other plans and strategies, including the national prison policy plan 2016–2020, adopted by Supreme Decree No. 005-2016.

28. With respect to the rehabilitation of victims of torture, the fourth strategy line of the National Human Rights Plan 2018–2021 sought to strengthen the national legal system through the implementation of international instruments for the promotion and protection of human rights, while the sixth strategic action referred to the creation of a central register for cases of torture and other cruel, inhuman or degrading treatment or punishment. Currently, the national register of remand detainees and convicted prisoners contained data on all the crimes defined in the Criminal Code, including the crime of torture. According to that register, five individuals had been arrested for the crime of torture in Peru between 2016 and 30 June 2018.

29. **Mr. Sánchez Velásquez** (Peru) said that the 2003 conclusions of the Truth and Reconciliation Commission had provided an important starting point for understanding the consequences of the human rights violations that had occurred between 1980 and 2000. The Comprehensive Reparations Plan established in 2005 was based on the Central Register of Victims, which contained records of 35,383 victims of torture, including 1,261 victims of sexual violence. All victims of torture received tailored, quality care through the Health Reparations Programme. Similarly, amendments made to Supreme Decree No. 012-2016-JUS had ensured that all civilians and military or police personnel who qualified for economic reparations were able to benefit therefrom, regardless of the date of their application. Although members of terrorist organizations and persons prosecuted for acts of

terrorism were barred by law from acquiring the status of victims and beneficiaries of the various reparation programmes, legal channels for access to care and reparations remained open to members of terrorist organizations whose human rights had been violated.

30. While no irregularities had been reported in the implementation of the Collective Reparations Programme, local governments had experienced certain difficulties, including delays in accessing funding. In response, the High-Level Multisectoral Commission had written to the Office of the Comptroller General to ensure that projects would henceforth be implemented in a timely manner. It was important to note that projects were chosen by the members of the affected communities themselves. To date, 5,712 affected communities had been recorded in the Central Register of Victims. Forty-six per cent of those had already received support, and 160 more would receive support in the near future. In accordance with the National Human Rights Plan, it was hoped that support would be provided to 80 per cent of the affected communities by 2021.

31. Act No. 30470, which established a public policy to search for persons who had disappeared during the 1980–2000 period of violence, provided that every effort should be made to determine the facts and, where possible, recover human remains and return them to families for a dignified interment. It also established that families should receive psychological support throughout the process in addition to any logistical and material assistance they might require in order to be able to play an active role in the search. The humanitarian focus of the search meant that its results were not measured in terms of the number of bodies recovered, but rather in terms of the responses given to families. When it was not possible to recover the remains of a victim, the response involved holding a symbolic ceremony in the community. Although only 1,159 of the at least 20,329 persons who had disappeared between 1980 and 2000 had been recovered and returned to their families, under the new policy, responses would be given to at least 2,500 more families in the coming three years.

32. Lastly, the General Directorate that had been established to assist the search for missing persons was currently carrying out investigations in the departments of Ayacucho, Huánuco, Huancavelica and Junín. In addition, it was developing intervention strategies for the most complex disappearance cases, which had occurred at military bases.

33. **Mr. De la Puente Ribeyro** (Peru) said that Peru had received more than 550,000 migrants from the Bolivarian Republic of Venezuela in a spirit of democracy and solidarity. Since 2015, the Government had adopted a policy that provided for two mechanisms: temporary permission to remain (PTP), created in January 2017 and last updated in January 2018, and recognition of refugee status. Act No. 27891 specifically recognized the right to non-refoulement. By merely submitting an application for refugee status, an individual received an official document that gave him or her the right to remain and work legally in Peru until his or her status was determined in the final instance.

34. Given that 800,000 more Venezuelans were expected to arrive in Peru before the end of 2019, the Government, having assessed its ability to receive them, had decided to limit the granting of PTPs to those who had arrived before 31 October 2018, giving them until 31 December 2018 to apply. To date, more than 130,000 Venezuelans had received a PTP and an estimated 200,000 more were currently applying. All Venezuelans who arrived after 1 November 2018 could continue to invoke refugee status and be received as asylum seekers. Processing their applications might take a great deal of time, and priority would be given to those who had substantial grounds for fearing persecution and a need for international protection. Allegations of torture would, of course, be taken into account when determining the existence of a real and substantial threat of persecution.

35. The decision to require Venezuelans to show a passport had been taken purely as a means to adequately identify them, given the easily forgeable nature of identity cards. However, no pregnant women, mothers with children, unaccompanied minors, elderly citizens or other vulnerable Venezuelans had been denied entry for failing to produce a passport. Thanks to the policies of the Peruvian Government, Venezuelan citizens in Peru had the right to employment, medical care and education.

36. The most common point of entry for Venezuelans was at Tumbes, on the border with Ecuador, where the Executive Secretariat of the Special Commission for Refugees had

established an office to receive asylum applications directly. The Government had worked closely with the Office of the United Nations High Commissioner for Refugees (UNHCHR) and the International Organization for Migration. As the migration crisis was of a magnitude that exceeded national capacities, it would also require sustained, collective efforts from the international community.

37. **Ms. Lecaros Terry** (Peru) said that violence against women was a problem worldwide, including in Peru. In 2017, 217,148 complaints of domestic violence had been received, including 191,820 that had not led to convictions. A large proportion of the complaints received between January and July 2018 had also not led to convictions. Between January 2017 and September 2018, 755 cases of femicide, 33,064 cases of assault, 8,157 cases of sexual violence and 4,069 cases of acts of indecency had been resolved by the judicial system.

38. The Ministry of the Interior had recorded more than 7,000 complaints of sexual violence in 2017 and around 3,500 in the first half of 2018. In response, the Government was developing a number of assistance and prevention strategies, including an action plan to establish public policy and concrete emergency measures aimed at preventing violence against women and providing assistance to victims. A total of 200 million soles had been earmarked to fund the various measures under that plan.

39. Tangible efforts were being made in a number of areas to provide assistance to victims of violence against women. The Ministry of Justice and Human Rights offered legal assistance and counselling to victims and the Public Defence Service had aided almost 5,000 victims in the first half of 2018. A network of 295 emergency centres for women, established in police stations under the National Programme to Combat Domestic and Sexual Violence, provided round-the-clock legal, psychological and social assistance and had handled over 95,000 cases in 2017 alone. Under the same programme, 12 temporary shelters had been set up across the country and had accommodated and provided psychological support to over 1,500 women in 2017. Moreover, the Public Prosecution Service had approved the creation of 10 temporary provincial public prosecutors' offices specializing in violence against women throughout Lima — the first of their kind in Peru. Lastly, in 2017, the Judicial Training School had trained over 1,100 magistrates and judicial officials in gender mainstreaming, gender-based violence, trafficking in persons and femicide.

40. With respect to sexual and reproductive health, Act No. 30364 on the prevention, punishment and eradication of violence against women and members of the family unit had been amended to make explicit the obligation on health professionals to provide specialist assistance to victims of sexual violence. To that end, the Ministry of Health had set a target for every hospital in the country to be equipped with emergency treatment kits for such victims.

41. Congress was responsible for legislating on abortion in cases of sexual violence. Two legislative initiatives in that area had been tabled by members of Congress but had not gained enough support to be debated in plenary.

42. **Mr. Heller Rouassant**, while grateful for the delegation's answers, said he was concerned that the new legal definition of torture in the Criminal Code did not cite any potential reasons for torture, such as discrimination, which had been identified as a major issue in Peru. He was keen to hear the Committee's views in that regard, particularly in light of general comment No. 2 on implementation of article 2 by States parties, which stated that discrepancies between the definition of torture in the Convention and that incorporated into domestic law could create loopholes for impunity.

43. He had been given to understand that the national preventive mechanism was extremely underfunded and understaffed and wished to know whether it would be given more resources. Steps should be taken to ensure the independence of the mechanism, which he understood was financially dependent on the Ombudsman's Office. It was vital that the mechanism had the means to broaden its focus to areas other than juvenile offenders' institutes and women's prisons, to visit a wide range of detention centres and to extend its scope of activity beyond Lima.

44. With specific reference to the death in police custody of Walter Johnny Arrunátegui Gómez, he wished to know whether the “meditation area” in which the detainee had died was a religious facility or a place of punishment.
45. He would be grateful for the State party’s response to reports that abuses had taken place during states of emergency, which appeared to have been declared for a whole host of different reasons.
46. The National Human Rights Plan was laudably ambitious but should be implemented with due regard for vulnerable groups. He wished to know what steps were being taken to afford legal protection to those groups and if, for example, a specific law would be enacted to protect the lesbian, gay, bisexual, transgender and intersex (LGBTI) community. He welcomed the drafting of a protocol to protect human rights defenders but did not see the need for lengthy debate on the issue and wished to see it implemented quickly.
47. He appreciated the State party’s comments on the protection of migrants’ and asylum seekers’ rights. However, in the face of a rapidly increasing number of migrants from Venezuela, he wished to know how Peru planned to honour its non-refoulement obligation under the Convention.
48. **Mr. Rodríguez-Pinzón** said that the State party was to be commended on its efforts to increase the capacity of the penitentiary system and looked forward to receiving updated figures in that regard; however, he would be interested to know how long those improvements would take. He also wished to know at what altitude the Ica and Arequipa megaprisons would be built, given that high-altitude prisons were a matter of concern for the international community. If the State party was not intending to close Challapalca prison — which stood at 4,200 metres above sea level — as the Inter-American Commission on Human Rights had recommended, he wondered if it would consider transferring non-local inmates from there to other facilities.
49. He was grateful for the information provided by the delegation on alternatives to pretrial detention and would appreciate further written information on that subject. He was also grateful for the data provided on women and vulnerable groups in prison but was concerned that almost 200 children under 3 years of age were living with their mothers in detention centres. He wondered what steps the State party was taking to ensure alternative sentences in such cases.
50. He would appreciate further statistics on tuberculosis in detention centres and would like to know whether, in the State party’s view, that crisis could be brought under control based on the figures provided for 2017 and 2018. He also wished to have sight of the care protocols for prisoners with tuberculosis.
51. The delegation had reiterated that there had been no cases of evidence being rejected on grounds that it had been gathered under torture. He wondered whether that was so, or whether no mechanism was in place to ensure that judges rejected such evidence.
52. He would be grateful to have the State party’s comments on the apparent exclusion of persons accused of terrorism or considered members of subversive groups from its reparation plan, particularly as the Convention provided that all victims of torture should be able to seek redress, regardless of their crimes.
53. He was pleased to hear that the Public Defence Service had been making a particular effort to combat violence against women. However, against the backdrop of reports that the contracts of some 200 public defenders had been terminated in late 2016, he wondered whether there were sufficient resources to address such priority issues.
54. Lastly, he had yet to receive an answer to his question on the use of electroconvulsive therapy at the Hermilio Valdizan hospital.
55. **Mr. Touzé** said that he wished to know by what percentage prisons were overcrowded. Was it 129 per cent, as claimed by the delegation or 231 per cent, the figure put forward by the National Prison Institute in September 2017? Either the State party had managed to halve overcrowding since September 2017 or one of the two sets of figures was wrong.

56. Given the clear difference in the legal status of remand prisoners and convicted prisoners, he wondered why it had proven so difficult to separate those two groups. Finally, he would welcome the State party's comments on the fact that only a very low proportion of remand and convicted prisoners benefited from electronic tagging.

57. **Ms. Gaer** said that she had received no replies to a number of her questions. First, she would appreciate clarification on what steps the State party was taking to change the widely held view among police officers and judges that mediation and conciliation were appropriate methods of addressing domestic violence, an approach which meant that women and girls were being sent back to their families and abusers, and whether other forms of violence were also envisaged. Secondly, she wished to know whether Act No. 30364 on the prevention, punishment and eradication of violence against women and members of the family unit met the challenge of addressing the dramatic increase in the number of reports of sexual violence, domestic violence, femicides and violence affecting women and children. She wondered what steps were being taken to address the discrepancy between official reports and those of non-governmental organizations, to address potential inadequacies in the allocated budget and to set up mechanisms to monitor implementation of the Act. Thirdly, she asked whether health-care providers were still required to report women who sought post-abortion care — who could be bleeding to death or in other severe circumstances — for the alleged crime of having had a termination of pregnancy. If so, how many women, doctors and health personnel had been sanctioned as a result?

58. **Mr. Hani** said that he had not received replies to two of his questions. First, with reference to paragraphs 69 to 74 of the report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on its visit to the State party in September 2013 (CAT/OP/PER/1), which contained the Subcommittee's observations on prison regimes and informal disciplinary mechanisms, including cases of suicide and attempted suicide among women detained in the Chorrillos annex, he wished to know what measures the State party had taken to implement the Subcommittee's specific recommendations (para. 75) to ensure that due process was guaranteed. Secondly, he wondered whether the Government intended to increase its contribution to the United Nations Voluntary Fund for Victims of Torture.

59. **Ms. Belmir**, in relation to her question about the frequency with which a state of emergency had been declared in the State party, even during peaceful social demonstrations, asked to what extent the consequent violation of fundamental human rights could be reduced. Noting that in the past the State party had declared that it did not recognize the jurisdiction of the Inter-American Court of Human Rights, she asked whether the State party's relationship with the Court had improved.

The meeting was suspended at 5.15 p.m. and resumed at 5.30 p.m.

60. **Mr. García Castillo** (Peru) said that training provided to defence sector officials covered the Convention, with the aim of preventing the arbitrary or excessive use of force by the Armed Forces. The National Commission for the Study and Application of International Humanitarian Law had conducted training for police officers and members of the Armed Forces, with a view to continuously promoting and developing measures on education and awareness-raising with respect to international humanitarian law. The flagship "Miguel Grau" course had been run every year since 2006, focusing mainly on the use of force in situations of armed conflict or other violence. A decentralized version of the course had also been run since 2012 in the departments of Ayacucho, Huancavelica and Junín. An average of 400 individuals had been trained between 2016 and October 2018, mainly members of the Armed Forces, police officers and public officials, but also officials from the Ombudsman's Office and members of civil society involved in the implementation and application of international humanitarian law. The Armed Forces specialized training centre on international human rights law and international humanitarian law had to date trained 14,856 Armed Forces officials, justice officials and civilian personnel.

61. The training courses run by the in-service training academy of the National Police included a module on human rights and the use of force. Through Ministerial Decision No. 517-2018-IN of 2 April 2018, the Ministry of the Interior had adopted a programme to

strengthen police capacity on human rights, covering cases of violence against women, disappearance of persons and the use of force. To September 2018, a total of 3,714 police personnel had been trained from 236 national police stations. The human rights handbook for police staff, adopted through Ministerial Decision No. 952-2018-IN of 14 August 2018, established a set of provisions aimed at strengthening human rights policy through procedures to minimize risks to the integrity or life of those involved in police interventions, with emphasis on the differentiated and proportionate use of force. The handbook contained a section on vulnerable groups, including children and adolescents; women; older persons; peasant, native and ethnic communities; lesbian, gay, bisexual, transgender and intersex (LGBTI) persons; persons living with HIV/AIDS and other infectious or contagious diseases; sex workers; and internally displaced persons.

62. In relation to LGBTI persons, and on the specific advice of the Committee, the handbook provided that the National Police must avoid all discriminatory, cruel, humiliating or degrading acts, of a sexual or other nature, that could constitute an attack on an individual's dignity or intimacy; guarantee and respect the right to freely use public space and the right to peaceful assembly; guarantee and recognize the right to freedom of expression and freedom of association; and provide immediate assistance when they were victims of assault and duly register their reports in a timely manner.

63. All police training centres incorporated modules on gender, gender-focused justice and gender-based violence, based on Act No. 30364 on the prevention, punishment and eradication of violence against women and members of the family unit. Referring to the question asked by Ms. Gaer, he said that the Act prohibited the use of mediation and conciliation between victims and their aggressors during proceedings concerning violence against women and family members. With a view to guiding police conduct in police stations, the Peruvian National Police had approved a directorate decision establishing procedures for police intervention under the Act.

64. Through the school of the Public Prosecution Service, from 2016 to date, training courses, seminars and workshops had been provided on the following topics: family violence, to 302 participants; gender-based violence, to 1,246 participants; human rights, to 174 participants; trafficking in persons, to 2,227 participants; and indigenous peoples, to 452 participants. Participants had included judges, forensic doctors, medical personnel and officials from the Public Prosecution Service.

65. **Mr. Sánchez Velásquez** (Peru) said that his delegation would provide the statistics and additional information requested by Committee members in writing as soon as possible. Regarding the definition of the offence of torture, he noted that the National Commission for the Study and Application of International Humanitarian Law was considering incorporating into the Criminal Code the offences defined in the Rome Statute. A dialogue was under way with other sectors, the Public Prosecution Service and with the Committee members to identify the improvements that were needed.

66. With regard to the national preventive mechanism, Peru respected international treaties, and would support the national mechanism as far as possible; however, he noted the Committee's comments that more staff were needed at the national level to implement the measures taken, as well as more financial support, in order to ensure that the mechanism worked. Indeed, the Ombudsman's Office had been increasing the budget over the period under review.

67. With regard to the meditation area in police stations, he specified that it was a detention room, not a religious facility, and that detainees were kept there until their legal situation was determined by a judge.

68. A state of emergency was called only in exceptional situations of crisis in which the State was required to take exceptional measures; it was not a regular event, and the aim was to ensure safety in specific areas for reasons of security. In those situations, the human rights of more citizens would be at risk if the state of emergency was not imposed. While the right to freedom of movement or to freedom of association could be restricted, the constitutional guarantees remained in place; for example, it was not possible to suspend the courts' use of measures such as habeas corpus or *amparo* to establish whether there had been violations of fundamental human rights.

69. On the question of refugees, the Government worked carefully on a case-by-case basis to identify individuals who should be granted refugee status. The mass migration from Venezuela had caused the number of applications for refugee status to increase exponentially. Peru strictly followed the procedures that were in place, and under no circumstances were individuals returned if it was deemed that their life was at risk. From the moment of application for refugee status, the individual was immediately given a stay permit and was entitled to a series of rights, including the right to work.

70. His Government was extremely concerned about the problem of violence against women and the political will existed at the highest levels, including the presidency, to tackle it as a matter of urgency. As with any public policy, three elements were required for its success. First, there were amendments to the relevant legislation, which had been described in detail and which had been introduced recently, with a view to improving support for victims. Secondly, the relevant ministries, sectors and authorities had to be given the necessary budgetary resources to deal with the situation. The budget was guaranteed for the current year, and for the following year would be quadrupled. Thirdly, trained staff were needed to implement the policy. His colleagues had described the training that was being provided to members of the National Police and the Public Prosecution Service on the importance of ensuring the protection of women's rights, with a view to eradicating, as a matter of urgency, the interpretation that it was acceptable for cases of femicide or violence to be dealt with only in the family context rather than through due legal process.

71. Regarding the new prisons, they would be located in Ica, at an altitude of 500 metres above sea level, and Arequipa, at an altitude of 400 metres: in Peruvian and Andean terms, those altitudes were quite reasonable. On the question of reparations, it was important to consider the Peruvian context. Peru had experienced a period of terrible violence, and the thousands of victims would feel doubly victimized if they and the perpetrators of the crimes that they had suffered were afforded the same level of support. However, that was not to say that no support was available. The problem of the reduction in the number of public defenders had been resolved, since 203 new public defenders had been recruited in 2017, and 894 more would be recruited by 2021. On the drafting of the protocol to protect human rights defenders, consultations were being conducted among ministries and civil society, in a spirit of participation, to ensure that it was adopted as soon as possible, and a first draft would be ready for adoption later that year. Peru did not accept the reports of alleged suicides in the Chorrillos annex, referred to in the report of the Subcommittee on Torture, as they did not coincide with its own reports to date. However, the structural improvement of prisons, to resolve the problem of overcrowding, was a matter of concern, and the Government was implementing measures in that regard.

72. In closing, he thanked the Committee for the constructive, frank and cordial dialogue and reaffirmed Peru's firm commitment to its obligations under the Convention and its active cooperation with the international human rights system. Its commitment to the promotion and protection of human rights, and in particular to support for victims of torture, was demonstrated in its ongoing and uninterrupted contributions since 2012 to the United Nations Voluntary Fund for Victims of Torture, which would continue into the future. The Government was continuing to implement the recommendations of the Subcommittee on Torture, one of whose members since 2011 was a Peruvian. Peru was determined to put its people at the centre of its development, and while much still had to be done to achieve optimal implementation of the Convention and the Committee's recommendations, it was committed to the work ahead. One of the aims of his delegation was symbolized in the phrase inscribed on one of six flags that had been hoisted a few days earlier in the city of Ayacucho — the site of the last battle to secure the nation's independence — on the occasion of the launch of the President's Bicentenary Agenda, to mark the 200-year anniversary of the Republic in July 2021: "To be a country that makes dialogue its main weapon against violence".

73. **The Chair** thanked the delegation for the constructive dialogue and for its diligence in providing comprehensive replies to the Committee's questions.

The meeting rose at 6 p.m.