



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances Sixteenth session

### Summary record of the 281st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 10 April 2019, at 3 p.m.

*Chair:* Ms. Janina

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*The meeting was called to order at 3.15 p.m.*

**Consideration of reports of States parties to the Convention** *(continued)*

*Initial report of Peru (CED/C/PER/1; CED/C/PER/Q/1 and CED/C/PER/Q/1/Add.1)*

1. *At the invitation of the Chair, the delegation of Peru took places at the Committee table.*
2. **Mr. Sánchez Velásquez** (Peru), introducing the initial report of Peru (CED/C/PER/1), said that civil society organizations and associations of relatives of disappeared persons had not been consulted during the preparation of the report, owing to the lack of appropriate mechanisms for doing so. That situation had been corrected in 2018, however, when several mechanisms for the participation of those stakeholders had been set up as part of efforts to implement the National Human Rights Plan 2018–2021. So far, six meetings with associations of the relatives of disappeared persons had been held.
3. The Government had set itself a number of goals to further the implementation of the Convention. The first was to strengthen the capacity of State institutions in order to promote a humanitarian approach to the search for disappeared persons. In that context, the State had committed to communicating the results of search efforts to victims' relatives in 500 cases of enforced disappearance each year. The second was the prompt approval of normative measures intended to build up the register of victims of enforced disappearance and regulate entries made to it, with a view to facilitating the recognition and restitution of victims' rights and those of their families. That work was being carried out in cooperation with the International Committee of the Red Cross. The third goal was to provide financial reparation to all victims of the human rights violations, including enforced disappearance, that had occurred during the period of violence from 1980 to 2000, and to their family members. By the end of April 2019, 18,352 family members would receive such reparation. The Government's fourth goal was to strengthen efforts to prevent enforced disappearance in the future, through the training of justice officials, members of the armed forces, police officers and other security personnel in the public and private sectors.
4. Peru had made much progress, and encountered many challenges, in the implementation of the Convention. Since the classification of enforced disappearance as an offence under the criminal law, the search for persons alleged to have disappeared during the period 1980–2000 was carried out exclusively through a criminal investigation to identify the perpetrators and the victims. That change of approach had led to the adoption of a number of measures: the creation of a specialized subsystem for terrorism and crimes against humanity; the establishment of the National Criminal Division; the assignment to Panel B of the National Criminal Court of exclusive responsibility for hearing cases of human rights violations; the organization of a specialized forensic team under the Institute of Forensic Medicine of the Public Prosecution Service; and the issuance of special directives relating to the investigation of enforced disappearance by the Public Prosecution Service.
5. Act No. 30470 on the Search for Persons who Disappeared during the Violence of 1980–2000 had been adopted in June 2016. Its aim was not only to facilitate the prosecution of the perpetrators of enforced disappearance but also to serve as a basis for locating burial sites, identifying victims and returning their mortal remains to their relatives through the use of a humanitarian approach. As of April 2019, investigations had been conducted into the fate of 403 disappeared persons, and the mortal remains of 22 victims had been returned to their families. In addition, 86 burial sites had been located, and psychosocial counselling had been provided to 382 families of victims. In total, the remains of 38 victims of enforced disappeared had been recovered. Emphasizing a humanitarian approach to the search had also led to the greater involvement of victims' relatives and persons who had information about possible burial sites but who had never before dared to come forward.
6. Collecting and managing information relating to the acts of enforced disappearance that had taken place during the period of violence had been a major challenge. Progress had been made in recent years, however, with the adoption of the National Plan for the Search

for Disappeared Persons (1980–2000); the establishment of the General Directorate for the Search for Disappeared Persons; the development of the Genetic Databank for the Search for Disappeared Persons; and the launch of the National Register of Disappeared Persons and Burial Sites. The Register had centralized information that had previously been held in various registers on a total of 20,507 persons who had been disappeared during the period of violence. As of March 2019, the number of victims of enforced disappearance registered in the Central Register of Victims sat at 9,219, in addition to 20,804 registered direct relatives.

7. Approximately US\$ 21 million had been awarded in financial reparations for individual victims, and a further US\$ 82 million had been provided in the form of collective financial reparations for communities and organized groups of non-returning displaced persons. A total of 2,675 production and infrastructure projects had been carried out for the benefit of affected communities, and there were plans to provide assistance to all communities and organized groups of non-returning displaced persons by 2023. Technical assistance had also been provided to government agencies and subnational governments with a view to facilitating reparations. Public recognition ceremonies, in which the Government had presented public apologies on behalf of the State, had been held in memorial spots throughout the country.

8. The judicial branch had made a commitment to strengthening its specialized bodies that were competent to deal with cases of enforced disappearance. Consequently, the School of the Public Prosecution Service and the Academy of the Judiciary had undertaken to organize specific training on enforced disappearance. There were currently 341 open criminal proceedings for cases of enforced disappearance. The General Directorate for the Search for Disappeared Persons had opened four offices in the departments hardest hit during the period of violence, and the Directorate's budget was set to increase significantly between 2018 and 2019. The amendment of the classification of enforced disappearance in the Criminal Code in 2017 had facilitated the prosecution and punishment of perpetrators. Disqualification from holding public office had been established as a penalty for enforced disappearance, in addition to imprisonment.

9. Although currently classified under the section of the Criminal Code dealing with crimes against humanity, the wording of the provision made it clear that any act of enforced disappearance was considered a criminal offence, regardless of the context in which it was committed. Nonetheless, the State would continue its efforts to bring its criminal law into line with the Rome Statute of the International Criminal Court and with other relevant international human rights treaties. Peru had made a commitment to preventing acts of enforced disappearance in the future, to which end it would continue to cooperate with international systems for the promotion and protection of human rights.

10. **Ms. Galvis Patiño** (Country Rapporteur) said that she would appreciate an explanation as to why the State party had not adopted a declaration recognizing the competence of the Committee to receive and consider communications in accordance with article 32 of the Convention, whether it planned to make such a declaration, and if so, when the declaration would be made. She would also appreciate further information on the State party's protocol for consulting with civil society during the preparation of reports to the human rights treaty bodies. In addition, she would be grateful for examples of cases in which international law or the decisions of international bodies relating to enforced disappearance had been invoked directly by the courts as justification for a ruling.

11. **Mr. Huhle** (Country Rapporteur) said that he was interested in knowing how the State party ensured respect for the non-derogability of the prohibition of enforced disappearance. In addition, he would appreciate further information regarding the legal status of the Convention in the State party's legal system, in particular, whether the Convention took precedence over domestic law.

12. The State party indicated in its replies to the list of issues that, according to the General Directorate for the Search for Disappeared Persons, at least 20,349 persons, of whom about 80 per cent were males and more than 10 per cent were minors, had disappeared between 1980 and 2000. The delegation had provided a somewhat higher total

figure of 20,507 persons. He would be interested in hearing how such data had been compiled.

13. According to the replies to the list of issues, 215 cases of enforced disappearance had been recorded between 2015 and November 2018 in the provincial public prosecutors' offices for criminal and civil matters, and 260 complaints concerning alleged cases of enforced disappearance had been received. It was unclear whether those cases formed part of the total figures reported for the period from 1980 to 2000 or whether they should be added thereto. In the latter case, it would be useful to know why they had not already been reported and investigated. If the cases related to the period after 2000, he would appreciate further details concerning the circumstances in which they had occurred.

14. According to the report, only 75 cases of enforced disappearance were currently being investigated, and only 10 cases had resulted in a conviction. He would appreciate detailed information concerning the number of investigations conducted, the number of investigations that had led to criminal judicial proceedings and the number of final judgments that had been handed down. He would also like to know how many cases had been quashed and on what grounds. The Committee had been informed that some had been quashed because the armed forces had been unwilling to provide testimony. He asked how many proceedings had led to convictions and how many to acquittals, and to which State bodies the convicted public officials belonged.

15. He would welcome information on procedures for guaranteeing access to all the information required to ensure an effective investigation, including that obtained from military authorities. He wished to know whether the Government had assessed the impact on victims' right to truth and justice of the extrajudicial reconciliation procedures that were promoted by the Ministry of Defence with a view to suspending investigations and prosecutions. Did the victims receive counselling on how to take free and informed decisions in that regard?

16. It was his understanding that police and military officers suspected of involvement in enforced disappearances were, in principle, suspended from their duties. However, as the proceedings could be quite protracted, it was unclear whether they could eventually resume their routine activities and influence the case. What measures were taken to prevent such impediments to an effective investigation?

17. The new Code of Criminal Procedure envisaged protective measures for witnesses, experts, injured parties and collaborators who gave evidence in criminal proceedings. He wished to know whether such measures were also provided for lawyers and family members. It would be interesting to know who took decisions concerning access to such protection, how many beneficiaries had been recorded to date and what measures were taken to protect participants in legal proceedings from ill-treatment and harassment by lawyers, prosecutors and judges. He asked whether the State party had sufficient material and qualified human resources to conduct investigations in the huge number of pending cases, and whether it had considered establishing an investigating body to focus on the disappearances that had occurred between 1980 and 2000.

18. **Ms. Galvis Patiño** said that she would like to know whether article 320 of the Criminal Code, as amended by Legislative Decree No. 1351 in 2017 and which referred to "an official or public servant", was applicable to all agents of the State, in accordance with article 2 of the Convention. In August 2017, the National Criminal Court had decided, in the case concerning the Los Cabitos military base, that it would refrain from investigating the defendant because he had not been a civil servant or a member of the armed forces when national legislation classifying enforced disappearance as an offence was in force. She wished to know whether the Supreme Court or another judicial body could rule that persons should, in fact, be investigated, regardless of whether they had been an agent of the State at that time.

19. She asked whether the preliminary bill defining enforced disappearance as an autonomous offence had been adopted by the Congress of the Republic and whether enforced disappearance would continue to be defined as both a grave violation of human rights and a crime against humanity. The amended version of article 320 of the Criminal Code prescribed a minimum sentence of 5 years' imprisonment and a maximum sentence

of 20 years, but paragraph 11 of the replies to the list of issues referred to a maximum penalty of 30 years. She would therefore appreciate further information concerning the sentences prescribed in the current legislation and any amendment that might be made following the enactment of that bill.

20. Referring to paragraph 64 of the report, she asked whether the State party considered that sentences of 6 years' imprisonment for secondary accomplices in enforced disappearances and of 10 years' imprisonment in the event of a plea bargain were compatible with the requirement in article 7 of the Convention that penalties should take into account the extreme seriousness of the offence. Act No. 28760 ruled out the possibility of commutation and the right of pardon for persons convicted of abduction and extortion. She wished to know whether the State party was taking steps to include enforced disappearance among the offences for which humanitarian commutation was barred and, if so, what those measures were.

21. Noting that civilian superior officers could be held criminally responsible under the bill defining enforced disappearance as an autonomous offence, she asked how such responsibility would be regulated if the bill was enacted. Legislative Decree No. 1095, which regulated the use of force by the armed forces, stipulated that a superior should take due responsibility if he knew that his subordinates had violated the provisions of the Decree, and had not promptly adopted the preventive or corrective measures at his disposal. However, the provision failed to reflect the entire content of article 6 (1) (b) (ii) and (iii) of the Convention.

22. **Mr. Teraya** said he wished to know whether Plenary Agreement No. 09-2009-/CJ-116, which had been adopted by the State party's judiciary, constituted a mandatory interpretation of the Criminal Code or was merely intended as a guideline for interpretation. As the judiciary had recognized that a gap existed between domestic legislation and the State party's obligations under the Convention, he was interested in hearing whether there were plans to amend article 320 of the Criminal Code.

23. According to paragraph 32 of the report, the Constitutional Court had stated in a judgment handed down in 2013 that the offence of enforced disappearance had not always been in force in the legal order of Peru. He was surprised that, in that judgment, the Court had failed to mention the International Convention for the Protection of All Persons from Enforced Disappearance, since the State party had ratified the latter in 2012. Was the Convention directly applicable in the State party's courts?

*The meeting was suspended at 3.55 p.m. and resumed at 4.25 p.m.*

24. **Ms. Alfaro Espinosa** (Peru) said that her country had endured a horrendous period of violence between 1980 and 2000, which had resulted in a large number of enforced disappearances. Investigations and criminal proceedings were ongoing with a view to providing remedies for the deep wounds inflicted on families, communities and society as a whole. As it was vital to guarantee the non-recurrence of such crimes, the State pursued a policy aimed at the eradication of enforced disappearances. The impact of the two decades of violence on the Quechua, Asháninka and Aymara communities and on women had been particularly harsh. A complex procedure to promote reconciliation, justice and non-discrimination against the 56 indigenous peoples had been introduced in 2000.

25. **Mr. Rodríguez Tineo** (Peru) said that the international and regional human rights treaties that his country had ratified had constitutional status. They were automatically incorporated into domestic law, and courts had the obligation, where applicable, to invoke them. If the rationale behind a judgment was not explicitly mentioned, a review was conducted to ensure its consistency with the Constitution and other relevant treaties. The Constitution prohibited the suspension of fundamental rights following the declaration of a state of emergency. Certain limited restrictions were permissible, but offences such as enforced disappearances were prohibited in all circumstances, even if they were not explicitly mentioned in the Constitution. With regard to the question of possible inconsistencies between international legal norms and domestic legislation, human rights were recognized in practice as peremptory norms and must therefore invariably take precedence. There had been no case to date in which a ruling on such inconsistencies had been required.

26. Final judgments had been delivered in a number of cases of enforced disappearance. The Criminal Code provided for three types of criminal responsibility (direct responsibility, joint responsibility and indirect responsibility) and for two types of criminal participation (instigation and first and second degree complicity). While the majority of convictions secured for the crime of enforced disappearance had been handed down against indirect perpetrators, individuals had also been convicted of the related crimes of instigation and first and second degree complicity. He was not familiar with the specific case of enforced disappearance referred to by the Committee, but the leniency of the penalties imposed suggested that the individuals concerned had merely participated in, but had not been the direct perpetrators of, the crime in question. Generally speaking, the crime of complicity tended to attract more lenient penalties.

27. A member of the armed forces or a police officer who was the subject of criminal proceedings benefited from the principle of the presumption of innocence until he or she was convicted by final judgment. Although he could not comment on specific cases, it was his understanding that there was nothing to preclude military personnel or police officers from gaining a promotion, as long as such a judgment had not been handed down.

28. Regarding the perpetrators of enforced disappearance, revised article 320 of the Criminal Code made specific reference to officials and public servants, which, in accordance with article 425 of the same law, included members of the Peruvian Armed Forces and the Peruvian National Police, or any person acting with their consent or acquiescence. The requirement for the offence of enforced disappearance to be duly substantiated had been removed from article 320 of the Criminal Code on the reasoning that it placed too onerous a burden of proof on the victims.

29. As to the penalties attached to the crime of enforced disappearance, article 320 further provided that officials and public servants who committed a basic offence of enforced disappearance were liable to face disqualification and receive a prison sentence of between 15 and 30 years, and that those who committed an aggravated offence, namely an offence in which the victim was under 18 or over 60 years of age, had a disability or was pregnant, were liable to face disqualification and to receive a prison sentence of between 30 and 35 years.

30. However, enforced disappearance had not yet been defined as an autonomous offence in Peru. The bill that was currently being debated by Congress defined enforced disappearance as an autonomous offence and as a crime against humanity when it amounted to a widespread and systematic practice and prescribed a penalty of life imprisonment for perpetrators. Further amendments to the bill in question could not be ruled out.

31. It was true that Plenary Agreement No. 09-2009-/CJ-116 had not proved effective in prosecuting or punishing perpetrators of the offence of enforced disappearance. Although the Agreement was technically binding on all judges in Peru, they could choose to disregard it on the grounds that there was a need to first verify its compatibility with relevant international treaties. The judicial authorities recognized that the gaps identified in the Agreement could be exploited to promote impunity, given that, in the past, perpetrators of acts of enforced disappearance had not been duly prosecuted and punished, on the grounds that they no longer discharged the functions of an official or public servant. It was highly likely that, in 2019, the judicial authorities would review and repeal the Agreement in the light of those concerns.

32. **Mr. Landa Burgos** (Peru) said that, in its role of defending legality and protecting fundamental human rights, the Public Prosecution Service had a duty to give effect to the judgments of the Inter-American Court of Human Rights and to the recommendations contained in the reports of the Inter-American Commission on Human Rights. Recalling the events that had led to the disappearance of Bruno Carlos Schell, he confirmed that the Second National Criminal Prosecutor's Office had requested a prison sentence of 18 years for the alleged perpetrators and the payment of 150,000 soles in civil damages. The case was currently at the oral proceedings stage and was set to continue the following week.

33. Summarizing the events that had led to the disappearance of Genaro Villegas Namuche, he explained that the preliminary investigation into the case, which was being prosecuted under article 320 of the Criminal Code, had begun in January 2016 and

remained confidential. The related judicial proceedings were set to continue the following day. The case of Tenorio Roca, who had been abducted by military personnel and had presumably been disappeared, was a complex case involving the offences of both enforced disappearance and murder. Summarizing the most recent developments in the case, he reported that, in September 2012, the Ministry of Defence had granted a request to file a civil suit seeking damages and that, in October 2017, the First National Criminal Prosecutor's Office had brought charges against the accused. In March 2019, the judicial authorities had been preparing to set a date for the oral proceedings. A large number of cases involving extrajudicial executions, enforced disappearance, torture and murder at the Madre Mía military base were also under investigation.

34. The new Code of Criminal Procedure provided for measures to protect defendants, witnesses, collaborators, victims and relatives of victims who gave evidence in criminal proceedings, including proceedings relating to enforced disappearance, and officials involved in investigating and punishing the offences in question. Those persons could also benefit from the centrally administered programme for the protection of victims and witnesses of crime, which had been established by the Public Prosecution Service and the Attorney General's Office in 2008.

35. As of 2018, 156 units for the protection of victims and witnesses of crime were operating across the country, including 40 district units and 116 units that provided immediate protection. The services offered by those units included protection measures and free comprehensive legal, psychological and social support. Protection measures had been applied in a total of eight cases involving offences of enforced disappearance.

36. **Mr. Sánchez Velásquez** (Peru) said that the possibility of recognizing the Committee's competence to receive and consider inter-State communications under article 32 of the Convention was still being examined. A number of meetings had been organized with State institutions and civil society organizations to explain the content of the inter-institutional protocol designed to facilitate the task of reporting to and following up on the recommendations made by international monitoring bodies. The protocol would cover the drafting of reports to be submitted to the treaty bodies, the special procedures of the Human Rights Council, the Inter-American Commission on Human Rights and the universal periodic review, including those on follow-up to the recommendations set forth in the final outcome of the review. There would also be an opportunity for Government and civil society representatives to meet and discuss how best to cooperate in giving effect to treaty body recommendations.

37. In Peru, pardons on humanitarian grounds were granted without exception when it had been established that the health and/or life of an inmate was in danger. An assessment of the risks associated with the inmate remaining in his or her place of imprisonment was conducted in each case.

38. The National Register of Disappeared Persons and Burial Sites collected and consolidated data from a number of existing sources, including the following: the Central Register of Victims, which recorded the details of victims of human rights abuses during the internal armed conflict between 1980 and 2000; the special register of absences by reason of enforced disappearance maintained by the Ombudsman's Office; the judgments handed down by Peruvian courts and the Inter-American Court of Human Rights in cases of enforced disappearance; the testimonies collected by the Truth and Reconciliation Commission; the cases processed by the High-Level Multisectoral Commission; the national register of burial sites kept by the Truth and Reconciliation Commission; and information collected by civil society organizations. The National Register of Disappeared Persons and Burial Sites was expected to grow as ongoing investigations and search operations turned up new cases of disappearance and identified new victims. That initiative had likewise proved successful in encouraging the relatives of disappeared persons to request assistance from the State.

39. Following the end of the internal armed conflict in 2000, a number of laws and regulations had been adopted to address the complex issue of the disappearances that had occurred during that period, leading to the creation of registers for disappeared persons and search protocols, including the protocol followed by the Ministry of the Interior. However,

those legislative measures and tools had been conceived to deal with disappearances in the wider sense of the term, including disappearances attributable to human trafficking, and not enforced disappearances specifically.

40. Although Peru was a signatory to the Rome Statute of the International Criminal Court, it had still not fully incorporated all of the latter's provisions into its domestic criminal law. The National Commission for the Study and Application of International Humanitarian Law, which comprised representatives of various government ministries and humanitarian organizations, had drafted a bill that would incorporate all the crimes covered by the Rome Statute into the Criminal Code of Peru. It was now for the Ministry of Justice to approve the bill and submit it to Congress for debate and possible adoption.

41. **Ms. Galvis Patiño** said that, notwithstanding the reference to specific cases referred to in footnote 72 of the State party's initial report, she would welcome the delegation's comments on the compatibility with the Convention of 6-year prison sentences in cases of enforced disappearance. The Committee had received information according to which a case of enforced disappearance involving three community members (*comuneros*) and a former mayor in Acocro had been investigated as an abduction, rather than an enforced disappearance. Where the alleged perpetrators of an act of enforced disappearance were members of peasant patrols, she wondered if they could be tried under article 320 of the Criminal Code and, if so, why that had not been done in the aforementioned case.

42. While it was clear that no derogations should be permitted in respect of pardons on humanitarian grounds, it would be useful to know whether, in the case of other types of pardon, abduction and extortion remained the only offences in respect of which no pardon could be granted. Noting the State party's intention to bring its domestic legislation into line with the Rome Statute of the International Criminal Court, she urged the State party to consider carefully the content not only of the Rome Statute, but also of the Convention. Indeed, in the Rome Statute, in which enforced disappearance was listed as a crime against humanity, an act of enforced disappearance necessarily involved the intention of removing a person from the protection of the law for a prolonged period of time, whereas in the Convention, the crime of enforced disappearance was not time-bound, nor was intention a necessary element.

43. **Mr. Huhle** said that he would welcome additional statistical information. In addition, the 215 cases of enforced disappearance and 260 complaints of alleged enforced disappearance mentioned in the State party's written replies needed clarification, particularly with regard to whether those cases and complaints were included in, or were in addition to, the total of 20,507 cases cited by the delegation.

44. Access to all the information necessary for an effective investigation, including classified information such as military archives, was crucial in cases of enforced disappearance. He therefore found the delegation's statement to the effect that access to such documents was not guaranteed to be unsatisfactory. The Committee would like to know whether there were any government-led initiatives to make such access possible.

45. With reference to his earlier question about whether any civil servants, in particular, police officers or military personnel, had been suspended from their duties during the investigation of an enforced disappearance in which their involvement was suspected, he urged the State party to review the matter, as allowing such personnel to continue their duties normally could create situations of impunity. He recalled the example of Telmo Ricardo Hurtado Hurtado, who had eventually been convicted for his role in the Accomarca massacre, but who had nevertheless, before his extradition from the United States of America, received a promotion and had therefore increased his power and influence.

46. **Mr. Ravenna** said that he too wished to encourage the State party to draw inspiration not only from the Rome Statute, but also from other relevant instruments, such as the Convention, as there were some significant differences between them. For instance, the Rome Statute contained a reference to political organizations, which was absent in both the International Convention for the Protection of All Persons from Enforced Disappearance and in the Inter-American Convention on Forced Disappearance of Persons.



47. Referring to the delegation's explanations regarding compliance with the Constitution and with international instruments, he asked whether it was necessary to adopt additional legislation following the ratification of a convention before the latter could be applied. While that practice was common in many countries, it represented a conflict between positive criminal law and international law. He would appreciate a more detailed explanation of the court's examination of domestic legislation for compliance with a given instrument.

48. **Mr. Ayat** said that, as long as enforced disappearance was not established as a separate offence under domestic law, victims would necessarily fall outside the system of protections provided for under the Convention, notwithstanding the mitigating and aggravating circumstances provided for under the State party's domestic legislation. There were many situations that would not be covered and in which protections related to the exercise of jurisdiction over the offence would therefore not apply in the State party. On a positive note, he welcomed the State party's excellent initiative to bring its criminal domestic legislation into line with the Rome Statute.

49. **Mr. Rodríguez Tineo** (Peru) said that members of a community could, in fact, be charged in a case of enforced disappearance, if the commission of such acts by civil servants, including members of the military, were carried out with their acquiescence or consent. However, his delegation was not aware of any such cases. In terrorism cases, peasants had sometimes been the victims of terrorists, who had used threats to coerce them into collaborating in wrongdoing. That said, there was no provision in article 320 for members of a community to be charged with enforced disappearance.

50. Responding to a question about extrajudicial conciliation, he said that he was not aware of any such cases as those referred to by the Committee. It was, in fact, impossible, because the law did not allow for extrajudicial conciliation services in cases involving human rights violations or acts of enforced disappearance.

51. If the relevant legislation was enacted, enforced disappearance could be recognized as an autonomous crime, or at the very least, it could be described as a systematic practice, which would characterize it as a crime against humanity, requiring a harsher sentence. Clearly, enforced disappearance was a grave offence that affected not only victims but society as a whole. The sentences handed down in cases of enforced disappearance were sometimes lower than for other criminal acts because of the way in which judges applied the law. In cases involving terrorist acts, for example, it was sometimes the case that granting certain benefits, including mitigating circumstances, to those implicated in the case facilitated the clarification of the acts in question.

52. **Mr. Landa Burgos** (Peru) said that, with regard to the 1985 Accomarca massacre, legal proceedings had been initiated on 16 November 2010, and Telmo Ricardo Hurtado Hurtado had been extradited from the United States in July 2016. He had been charged, alongside 26 co-defendants, with involvement in the massacre. In 2018, the Supreme Court had upheld the lower court's ruling and sentencing of the accused to 24 and 25 years' imprisonment, according to their roles in the events. The vast majority of those convicted were officials. The case was considered closed after six years of hearings.

53. **Mr. Sánchez Velásquez** (Peru) said that, with regard to the aggregate number of cases relating to enforced disappearance, the Government was working with various institutions, mainly the Attorney General's Office and the Public Prosecution Service, to bring together all the relevant data. Clarification of the aggregate figure was expected shortly. An agreement had been signed between the Ministry of Justice and the Ministry of Defence for the transmission of any information deemed useful in the promotion and protection of human rights; such transmission extended to other institutions, too. Furthermore, according to Act No. 27806 on transparency, such information was not classified, but was public, in the sense that any person could request it from the Ministry.

54. Responding to the question on pardons, he noted that the Government was not currently considering amending the legislation to include any other offences to the list of those for which there was no right of pardon, apart from abduction and extortion. He thanked the Committee for its suggestions regarding the alignment of Peruvian legislation with the Rome Statute, noting that other international instruments would also be considered

in that process. As to sentences that reportedly fell below the minimum sentence for criminal offences, he was not aware of any examples of that happening, but if such a case were brought to the Government's attention, action would be taken to ensure that it did not affect the victims' right to justice and that it did not happen again.

*The meeting rose at 5.45 p.m.*