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### UNIVERSAL PERIODIC REVIEW

Peru<sup>\*\*</sup>

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## **Introduction**

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its second session from 5 to 19 May 2008. The review of Peru was held at the 3rd meeting on 6 May 2008. The delegation of Peru was headed by Her Excellency, Ms. Rosario FERNANDEZ, Minister of Justice. For the composition of the delegation, composed of 11 members, see annex below. At its 7th meeting held on 8 May 2008, the Working Group adopted the present report on Peru.
2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Peru: Mali, India and Cuba.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Peru:
  - (a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/2/PER/1);
  - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/2/PER/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/2/PER/3).
4. A list of questions prepared in advance by Canada, the United Kingdom of Great Britain and Northern Ireland, Switzerland, Denmark, and the Netherlands was transmitted to Peru through the troika. These questions are available on the extranet of the Universal Periodic Review.

## **I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS**

### **A. Presentation by the State under review**

5. At the 3rd meeting on 6 May 2008, the Head of the Delegation, Ms. Rosario Fernandez Figueroa, Minister of Justice of Peru, introduced the national report. She made reference to pending challenges and progress made in the promotion and protection of human rights. Peru also noted its commitment at the international level, within the framework of the Human Rights Council, in particular the Universal Periodic Review, to promote dialogue and cooperation towards the protection of human rights. It highlighted its commitment to continue cooperating with the international human rights system and reiterated its standing invitation made in 2002 for the special procedures to visit the country. Peru has made efforts in the last years to consolidate a true democracy with full respect for human rights, and to address the impact of terrorism suffered between 1980 and 2000. In this regard Peru noted that the judicial system has condemned to life imprisonment leaders of subversive groups in ordinary trials, with respect for the principles of due process. Reference was also made to the stable and promising economic situation of Peru, noting that poverty has decreased by 10 per cent since 2001. Peru indicated its satisfaction with the results obtained vis-à-vis its development and social inclusion goals.
6. Peru reported that it has a permanent dialogue with the *Coordinadora Nacional de Derechos Humanos*, a coalition of 61 human rights organizations, and is committed to continue this dialogue to ensure the follow-up to the Universal Periodic Review recommendations. Peru also briefly described the legal and institutional framework in the area of human rights highlighting that international human rights treaties and conventions are incorporated in domestic legislation and in

accordance with the 1993 Constitution, and have priority over domestic legislation for its implementation. Peru has ratified the seven core international human rights treaties, the American Convention on Human Rights and has also recognized the competence of the Inter-American Court of Human Rights.

7. The promotion, respect and protection of human rights require complementary action by the three branches of the State as well as by other autonomous constitutional organs. All ministries of the executive branch implement human rights-related actions. In particular, Peru described the responsibilities of the Ministry of Justice, as well as the functions and mandate of the National Human Rights Council which is composed of seven ministries of the executive branch, the judicial branch, the Prosecutor's Office, the Ombudsman Office (*Defensoría del Pueblo*), the Episcopal Peruvian Conference, the National Evangelical Council, the *Coordinadora Nacional de Derechos Humanos* and other observer institutions that aim at respecting human rights. In this regard, Peru indicated that it is committed to further strengthening the National Council of Human Rights, and to ensure a permanent and broad institutional dialogue. Peru also noted the important role played in the promotion and protection of human rights by the judicial branch, the Public Prosecutor's Office, the Office of the Ombudsman and the Constitutional Tribunal. Reference was also made to the responsibilities of the Ministry of Justice with regard to the penitentiary system; to specific programmes to provide free legal assistance and legal education; to the work of the Truth and Reconciliation Commission (TRC) and actions to follow up on its recommendations; to the first National Human Rights Plan; and to efforts to combat discrimination against women, indigenous peoples, persons with disabilities, persons living with HIV and other vulnerable sectors. Within the framework of national reconciliation efforts, reference was also made to the adoption of the Comprehensive Reparations Programme, the creation of the Multi-Sectoral High Level Commission that ensures follow-up to the TRC recommendations, the work of the Reparations Council and the implementation of programmes by the Ombudsman Office. Efforts to strengthen the administration of justice, such as the National Plan for the Comprehensive Reform of the Administration of Justice and the new Criminal Procedure Code were highlighted. Peru also referred to emblematic ongoing trials for human rights violations and acts of corruption, which demonstrate the capacity, effectiveness and independence of the judiciary. Peru noted the importance of eradicating social, economic, racial and other forms of discrimination and referred to public policies, strategies and the institutional framework to address poverty and extreme poverty in the country.

8. In responding to advance questions, Peru indicated that equality between men and women and fighting discrimination against women is a priority. Key public institutions have been established to protect the rights of women, such as the Ministry of Women and Social Affairs, the Commission for Women in Congress, the *Defensoría Adjunta* for the Rights of Women within the Ombudsman Office, the Commission for the Rights of Female Police Officers and other institutions. Peru's commitment in this regard is also reflected in relevant legislation and policies, such as the law on Equal Opportunities adopted in March 2007 and other legislation, the National Plan to combat Violence against Women, and the National Programme to combat Domestic and Sexual Violence. With regard to criticism on the impact of the restructuring of the Ministry for Women and Social Development (MIMDES) on the implementation of plans and programmes, Peru indicated that statistics have demonstrated in fact that this has not had any direct impact.

9. Peru recognized the existence of the problem of the penitentiary system, an issue raised by several delegations. A plan for the development of the penitentiary infrastructure from 2008-2017 has been elaborated with the main aim of ensuring attention for detainees with regard to the systems of health, education and labour in accordance with international standards. A commission was created to evaluate requests for presidential pardons and amnesties for humanitarian reasons. Peru is

aware that the number of security personnel is insufficient and has therefore been discussing the possible increase of funds to address this. A long-term penitentiary policy has also been elaborated, with the priority of re-socializing persons deprived of their liberty. Peru hopes that with the support and greater involvement of the international community and additional resources, progress will be made.

10. With regard to the death penalty, an issue raised by several delegations, Peru indicated that there have been no executions in Peru for over 30 years. The application of the death penalty is stipulated in article 140 of the Constitution. Peru also referred to legislative initiatives in Congress, as well as the public debate on the extension of the death penalty to serious crimes, but it stressed that senior public officials have publicly declared that Peru will in no circumstances move away from the Inter-American System.

11. Regarding the overall situation of human rights defenders and the links between the State and relevant stakeholders, and the law on the Peruvian Agency for International Cooperation (*Agencia Peruana de Cooperación Internacional* - APCI), Peru indicated that it greatly values the work of human rights defenders and other related organizations. Regarding modifications made to the APCI law, Peru stated that the law was not designed to undermine the work of the NGOs but rather to better regulate the existence of those NGOs with public or private funding which are exempted from paying taxes. Some provisions in the law were declared unconstitutional by the Constitutional Tribunal and the executive branch respects this decision. Peru stated that it guarantees protection to those human rights defenders who have presented complaints of harassment or threats. Peru described the legal mandate and competences of the autonomous national human rights institution, the Office of the Ombudsman (*Defensoría del Pueblo*) established in accordance with the Constitution and the Paris Principles.

12. On the implementation of the recommendations of the TRC, an issue raised by several delegations, Peru referred to progress reported on in its national report, highlighting various programmes and institutional arrangements, noting in particular progress made with regard to reparations to the victims of violence in affected regions. Peru also noted that a number of judicial processes of emblematic cases cited by the TRC are underway. The head of the delegation also noted that due to the limited time available and the large number of issues raised in advance, answers to other questions could be consulted on the OHCHR website, where these had been posted.

## **B. Interactive dialogue and responses by the State under review**

13. During the ensuing interactive dialogue, statements were made by 28 delegations. A number of delegations made statements praising Peru for its comprehensive national report and informative presentation. Delegations equally welcomed the work, report and recommendations of the TRC, as well as the Comprehensive Plan for Reparations.

14. Pakistan noted positive reforms introduced in the areas of the rights of women, indigenous people and disabled persons and of those affected by HIV/AIDS. It welcomed the adoption of the National Plan of Action for Human Rights and requested Peru to elaborate on the challenges faced in the implementation of the comprehensive plan of action and requested information on the planned steps to deal with these challenges.

15. Algeria commended Peru's ratification of the International Convention Against the Recruitment, Use, Financing and Training of Mercenaries; its adoption of the 1951 Convention relating to the Status of Refugees in 2002; its support for the United Nations Declaration on the Rights of Indigenous Peoples; and welcomed satisfaction expressed by the Committee on the

Elimination of Racial Discrimination (CERD) with the Ombudsman's actions on behalf of indigenous peoples. Algeria asked Peru to indicate its role in improving the situation of indigenous peoples and recommended that Peru continue to improve the situation of indigenous peoples.

16. The Philippines expressed its hope for more concerted efforts and political will and unity to give effect to the recommendations of the TRC. The Philippines noted the establishment of the Ombudsman's Office specializing in children's affairs, an action plan for children and adolescents, a national mental health and culture of peace strategy and the consistent advocacy for the rights of indigenous peoples. It also noted that death sentences had not been issued recent years and urged Peru to continue this trend. Elaboration was requested on additional measures aimed at eliminating all forms of discrimination, violence against women and trafficking in human persons. The Philippines encouraged Peru to continue paying attention to the promotion of human rights of vulnerable groups.

17. The Republic of Korea noted the Office of the Ombudsman's "A" status accreditation in 1999 and 2007, and recommended that Peru continue to cooperate with the activities of the Ombudsman and the Truth and Reconciliation Commission. It noted Peru's delay in reporting to CERD, the Committee on Economic, Social and Cultural Rights (CESCR) and the Human Rights Committee, and enquired if there are any particular difficulties preventing the compilation of information for the reports.

18. Canada stated that implementing recommendations of the TRC would strengthen human rights and combat impunity. Canada recommended that efforts be intensified to act upon the recommendations of the report. Canada noted reports of complaints of torture by police, military and prison officials and reports of reprisals against those reporting these cases. While recognizing the investigations of these cases and progress being made in repealing amnesty laws and bringing proceedings against officials for the acts of torture, Canada noted that the Committee against Torture expressed concern in 2006 regarding the length of the proceedings and the jurisdiction of the military criminal courts not in compliance with international obligations. Canada recommended that Peru adequately investigate all reports of acts of torture and ill-treatment, and of torture and forced disappearance perpetrated by State agents, ensuring that the military criminal justice system does not carry out these investigations. It also recommended ensuring that efforts are made to protect those reporting from reprisals, as well as the implementation of recommendations of the Committee against Torture. Further to the recommendation by the Committee against Torture, Canada recommended that Peru continue to take measures to address the issue of prison crowding and conditions, including providing prisoners with access to medical staff and court-appointed counsel.

19. Colombia enquired about the composition and extent of the functions of the National Human Rights Council. Columbia requested details, developments and the results of Peru's census of rural populations affected by violence entitled The Route to Peace. Regarding the fight against discrimination and inequality, Columbia enquired about the involvement of civil society in the National Human Rights Plan.

20. Chile noted the creation of the Executive Secretariat of the National Human Rights Council, the Ombudsman's Office and the Constitutional Tribunal. It particularly noted the efforts of the Ministry for Women and Social Development regarding gender and women's issues and encouraged Peru to continue to implement its policies, plans and services to protect the advancement of women and to protect them against violence. Chile also noted the National Plan of Action to Eradicate Forced Labour, suggesting that this issue continue to be given priority and requested information on additional measures being taken towards its elimination. Chile also called

for freedom of information, as well as the autonomy of NGOs, and for the promotion of participation of civil society.

21. Turkey wished Peru success in its struggle to combat terrorism which ended in 2000. Praising Peru for its pledges to implement the National Plan for Human Rights (2006-2010), Turkey asked two questions, which may also be formulated as recommendations: (a) it enquired about measures employed by the National Plan to address the adverse effects of oil production, mining and other economic activities on the full enjoyment of economic and social rights experienced by communities in adjacent territories; and (b) noting the limited scope of Peru's Criminal Code regarding the criminalization of violence against women, Turkey asked whether Peru plans to expand the definition of violence against women in accordance with the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW).
22. Belgium noted the establishment of the National Council for Reparations, established in 2006, in charge of registering individual and collective reparations and noted that thus far some 80,000 victims have been registered for the period between 1980 and 2000. Belgium however noted the Council's limited financial resources and its slow pace, and asked about the legal and financial resources Peru aimed to provide to the Council. As regards transitional justice, Belgium asked about Peru's plans for the establishment of a national witness protection programme. Belgium recommended to Peru to provide the National Council for Reparations with financial and other resources and to establish a witness protection programme.
23. Germany noted the slow progress in the follow-up to the recommendations made in the Truth and Reconciliation Report. Most of the cases delivered to the relevant authorities three years ago are still under investigation. Germany requested reasons for the delay and the prospects of resolving pending cases. In this context, Germany recommended to Peru to expedite the procedures to deal with the cases presented, in particular those presented by the TRC. Germany further requested Peru to elaborate on planned measures to combat corruption and strengthen the judicial system's capacity and recommended to Peru to continue its efforts to further strengthen the capacity and independence of the judicial system and to effectively combat corruption within the judiciary.
24. Malaysia noted that CEDAW had commended Peru on the initiatives taken to combat violence against women, including through the National Plan against Violence towards Women, but also expressed concern at the extent, intensity and prevalence of such violence. Malaysia requested information on achievements and challenges in the implementation of the National Plan and measures to overcome those challenges. Information was also requested on the extent of cases of women who reported undergoing involuntary sterilization and on the legal and policy measures taken to address the issue.
25. While Portugal noted that in 2006, CRC welcomed Peru's measures to combat child labour, Portugal expressed concern that hundreds and thousands of children and adolescents reportedly remain in the labour market, marginalized from education and subject to exploitation and abuse. Reiterating its opposition to the death penalty in all circumstances, Portugal recommended that Peru ratify the second Optional Protocol of the International Covenant on Civil and Political Rights (ICCPR) aiming at the abolition of the death penalty.
26. The Netherlands also expressed concern that the recommendations of the TRC had only been partially implemented and that only some victims had received reparation. The Netherlands recommended to Peru to report to the Human Rights Council on the full implementation of the recommendations of the TRC, including the investigation of all cases of human rights violations committed during the 20-year armed conflict and bringing to justice those responsible in trials

meeting international standards and granting reparations to victims. The Netherlands also noted that in 2006 the Special Representative of the Secretary-General on the situation of human rights defenders expressed concern at this issue and that in 2007, 89 cases of threats and actions against human rights defenders had been registered. It recommended to Peru to ensure the protection of human rights defenders to carry out their work freely and recommended to Peru to report to the Human Rights Council on concrete measures and actions taken in this regard.

27. Japan referred to reports of high rates of child labour, as indicated by UNICEF, while also noting the efforts made to tackle the issue through its National Plan for the Eradication of Child Labour, and requested more information on planned measures to address the issue. Japan also noted recommendations made to Peru by the Committee on the Rights of the Child and CEDAW to implement its national action plan and to take measures to combat trafficking, and requested elaboration on the current status of Peru's efforts regarding this issue. While Japan noted the positive evaluation made by the Special Rapporteur on the right to health of Peru's health policy, it also noted that the Special Rapporteur on adequate housing encouraged the development of strategies to improve access to water and sanitation by the poor. Japan requested information on plans in this regard.

28. Peru then responded to some of the questions raised, grouped by subject matter. It stated that the elaboration of the National Plan for Human Rights (2006-2010) is fulfilling Peru's previous commitments including those undertaken in its candidature for the Human Rights Council. Through the National Council for Human Rights there was an important unprecedented process for consultation for the preparation of the National Plan. Eighteen public hearings were held, as were preparatory hearings; there was equally active participation by both public and private institutions and grass-roots organizations. 2,800 persons participated throughout the national territory, 78 per cent of whom were from civil society. The National Plan seeks to strengthen democracy, justice, peace, development and the respect of fundamental freedoms and human rights, which are interdependent, mutually strengthening concepts. A number of recommendations have been implemented. Not all involved actors are familiar with this important document, but it constitutes a fundamental tool in the domestic elaboration of the human rights agenda.

29. Peru reiterated its commitment to the issue of indigenous peoples, as it has one of the highest populations of indigenous peoples in Latin America. Peru took a leadership role during the negotiations on the United Nations Declaration on the Rights of Indigenous Peoples, and presented the second draft resolution in the history of the Human Rights Council to approve this text. Special impetus was given to the National Institute for the Development of the Andean, Amazonic and Afroperuvian Peoples (*known as INDEPA*), a public institution which focuses on the promotion, defence, research and affirmation of the rights and development of the identity of these peoples. There is a need to strengthen measures to ensure an adequate balance between key economic activities which generate important economic resources for the public and private sectors and the living conditions and rights of these groups as well as of the environment. In accordance with these principles, concrete measures were adopted regarding indigenous peoples and mining in their territories; Decree 0012/2008 provides for citizens' participation in carrying out activities in this field, and sets out the role of citizens and civil society in promoting standards and harmonious relations between populations, States and enterprises that exploit these resources. There are different ways to conduct popular consultations in mining projects.

30. Peru added that while it has fallen behind in presenting its periodic reports to treaty bodies, as mentioned in its introductory statement it committed itself to presenting these reports in accordance with a defined timetable which goes until June 2009. On the issue of refugees, Peru mentioned its Refugee Law adopted in 2002 and the set of accompanying regulations; in that



framework there is a special commission which decides on asylum requests, presided over by the Ministry for Foreign Affairs and the Ministry of Interior. Asylum-seekers have the right to have their cases heard by a second body if their request is rejected by the first. Peru stated that it accepts around 80 per cent of requests, which is one of highest averages in region, and that it assumes its humanitarian duties towards refugees.

31. The Ministry for Women's Affairs and Social Development (MIMDES) is undertaking a major study on populations affected by violence, which is known as the 'Census for Peace', to facilitate the design of public policies oriented towards reparations, and the development and promotion of a culture of peace. So far, four stages have been carried out since 2001 and Peru is now preparing the fifth stage. On the issue of discrimination against women, Peru reiterated information it provided in its introductory statement and in its national report regarding the setting up of major public mechanisms for the promotion of the status of women, as well as legislative and regulatory measures on gender equality and policies on violence against women.

32. Peru added that measures and policies were designed with a view to ensuring a progressive increase in confidence in the justice system. Progress has been made to bring to justice key violators of human rights, persons who held the responsibilities in Government. Peru stated that mechanisms are transparent, enabling the population to see the development of these proceedings. Later, the conduct of judges has generated a better attitude among the population towards judges and restored the confidence which was once lost. This is in line with the new Criminal Procedure Code, which is useful to ensure that proceedings are more rapid and simple, to get results quickly and also to prioritize re-socialization of those who have broken the law, as opposed to prison terms, in many cases. On the issue of torture, as reflected in its most recent report submitted to the Committee against Torture two years ago, Peru stated its commitment to eliminating torture and other cruel treatment, a commitment reflected in the priority given to improving the prison system and the future establishment of a national mechanism for visits under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Consultations are ongoing to find the most appropriate way to do this in the short term. Finally, the Minister of Justice stated that the issue of prisons is one of the most important tasks she faces, and her personal method to tackle it involves visiting penitentiaries, holding working groups, meeting with prisoners in public courtyards, receiving phone calls, and answering their letters, either through civil servants or individually, which is an essential way to ensure dignified living conditions.

33. Slovenia asked about the lack of identification papers for more than 1.5 million persons, thus denying them full exercise of their rights. It enquired about recent measures to increase the population's confidence in the judicial system, especially with regard to combating corruption and increasing capacities of the judicial system. Slovenia expressed concern about the lack of access to health facilities for poor and marginalized communities, in particular women and children, and requested information about the steps undertaken to secure such access. While commending Peru's standing invitation to special procedures mandate holders, Slovenia requested further explanations with regard to the obstacles that prevented the visit of the Special Rapporteur on freedom of expression or opinion requested four years ago. Slovenia recommended that Peru (a) issue identification papers to those lacking them, (b) ensure that a gender perspective is fully integrated in the next stages of the Universal Periodic Review, including in the outcome, and that the gender perspective be systematically and continuously integrated in the follow-up procedure, (c) report regularly to the treaty bodies and to respond to special procedures' communications and questionnaires; and (d) consider applying the Yogyakarta Principles as a guide to assist in policy development.

34. The Russian Federation noted that in 2007 the Working Group on mercenaries had recommended to Peru to investigate the death of Peruvian nationals employed in private security companies abroad, and asked whether Peru had undertaken any steps in that regard. It also asked which percentage of the indigenous population did not have identity documents, and how their social rights were ensured.

35. The United Kingdom recognized the progress made in the field of human rights, highlighting the implementation of the recommendations of the TRC, and the bringing to trial of those associated with violence in Peru between 1980 and 2000 (including former President Fujimori). The United Kingdom encouraged Peru to further advance the still outstanding recommendations made by the TRC, particularly those relating to vulnerable groups and institutional reform. The United Kingdom expressed concern regarding initiatives to extend the death penalty's scope in Peru and recommended that Peru abolish the death penalty. Noting with concern the Supreme Decree (issued 27 April 2008) ending the participation of civil society as observers in Peru's National Human Rights Council, the United Kingdom stated that civil society plays a crucial role in promoting human rights and ensuring that governmental institutions are held accountable. The United Kingdom recommended that civil society be fully involved in the work to follow up on the review. Welcoming Peru's ratification of the Optional Protocol to CAT, the United Kingdom noted the Committee against Torture's concern about over-population, overcrowding, and the lack of medical personnel and court-appointed counsel in prisons. Because these conditions affect the human rights of those detained without trial and erodes public confidence in the judicial system, the United Kingdom asked Peru what steps have been taken to tackle this problem.

36. China noted, *inter alia*, the establishment of the independent justice system as well as Peru's national plan for human rights and measures adopted in favour of the rights of indigenous people, vulnerable groups and people affected by HIV. It noted efforts to eliminate discrimination against women, including the establishment of the Ministry for Women and Social Development, and requested further information on the functions of this ministry and on its achievements and challenges.

37. Mexico noted the progress made regarding the participation of women in political life, the legal status of indigenous communities, the review of cases and the imprisonment of people judged by the military tribunals in the period of 1980-2000, and the reestablishment of the competency of the Inter-American Court for Human Rights. Mexico noted the National Plan for the Integrated Reform of the Administration of Justice the implementation of which is not complete and requested information on the main elements of the plan and its expected impact on combating impunity. As regards the elimination of torture, Mexico recommended to Peru to cooperate more closely with the Committee against Torture, particularly by setting up a national complaint registration and investigation system, and to establish a national mechanism for the prevention of torture as determined by the Optional Protocol to CAT. It also recommended the ratification of the International Convention for the Protection of All Persons against Enforced Disappearance and to undertake legislative reform to criminalize trafficking in persons, in line with the Palermo Protocol.

38. Uruguay noted efforts made to combat impunity, mentioning the recent judicial proceedings against former President Fujimori. Uruguay noted the path of reform undertaken by Peru to strengthen institutions and the establishment of the rule of law initiated by the final report of the TRC. Uruguay expressed concern regarding the situation in the penitentiary system and detention centres and stated that Peru should maximize its efforts to improve the conditions of detention, especially with regard to the prevailing conditions in the Challapalca prison where detainees live under extreme climatic conditions.

39. Azerbaijan welcomed the “A” accreditation of the Office of Ombudsman and the results of its activities dealing with discrimination against indigenous populations and on cases of torture. It indicated the need to further advance its activeness in the human rights domain and achieve more tangible results. Azerbaijan noted that while Peru has extended a standing invitation to special procedures mandate holders, the visits requested by the Special Rapporteur on right to food had not been agreed upon and asked if Peru was considering consenting to such visits in the near future. It also asked when Peru intended to address the legal vacuum arising from the lack of national legislation aimed at regulating the activities of private security companies operating in the international market.

40. France noted that there were nearly 3,000 outstanding cases of forced disappearance dating from the period of the civil war. France enquired what measures Peru had envisaged to take to shed light on these cases. France encouraged Peru to sign and ratify the International Convention on the Protection of All Persons from Enforced Disappearance and implement all recommendations made by the TRC, in particular with regard to victims’ compensation and institutional reforms.

41. The United States of America noted that the National Coordinator of Human Rights, the Episcopalian Conference and the Peruvian National Evangelical Council were removed by Supreme Decree from their observer status in the National Council for Human Rights and expressed concern that such avenue for dialogue between civil society and the Government was closed. It requested information on what the Government was doing to foster such dialogue, especially with NGOs, and recommended that the Government demonstrate its commitment to coordinating with civil society, including NGOs, academics and research institutions, as it develops and implements domestic human rights policy. The United States also noted reports of violence and intimidation of the media in 2006 and 2007 and noted that corruption, drug trafficking and the activities of the Shining Path are dangerous subjects for reporters and that harassment involves State authorities and private groups. It asked what the Government was doing to prosecute legal cases related to such offences. The United States recommended that Peru expedite prosecution of these cases, impose penalties for government officials convicted of these offences and publicly demonstrate support for freedom of expression by denouncing violence against and intimidation of media. The United States also asked what the Government was doing to discourage acts of discrimination against Afro-Peruvians and to promote upward mobility in terms of economic and social status.

42. Italy recognized the National Human Rights Plan as a significant advance, but expressed concern about the recent discussion of draft legislative initiatives on expanding the scope of the application of the death penalty and recommended that Peru maintain the de facto moratorium on death penalty with a view to abolishing it in the medium term. While noting the importance of the 2007 Law on Equal Opportunity between Men and Women, Italy referred to women’s difficulties in accessing justice. Regarding the rights of children, and despite progress made by the National Plan to eliminate child labour, Italy expressed concern at the abusive working conditions in which thousands of children and adolescents find themselves. Italy recommended that in accordance with the conclusions adopted in 2006 by the Committee on the Rights of the Child, Peru strengthen its efforts to stop child labour and promote the social reintegration and education of child and adolescent victims of such abuses.

43. Brazil noted efforts made in combating discrimination and in the area of the rights of women and persons with disabilities, as well as the efforts made to fight impunity and to promote access to justice. Brazil enquired about main steps taken in the promotion of the rights of the child; measures regarding the issue of human rights defenders; the status of Peru’s implementation of its international commitments against torture; and further information on the achievements of the TRC

and steps taken and to be taken in this area. Brazil recommended to Peru to consider developing a national policy for the protection of human rights defenders which could consist of a national system for the protection of witnesses and human rights defenders.

44. Argentina highlighted Peru's discussion on the right to truth and measures adopted in support of penal reform. Argentina enquired about the details and additional elements of Peru's plan to improve the penitentiary structure.

45. Australia addressed the level of protection extended to human rights defenders in Peru and their ability to perform their functions in society. Highlighting that Amnesty International alleges that "human rights defenders continue to be threatened and intimidated because of their activities...and threats against them are rarely investigated," Australia asked Peru how it responds to these observations. Australia recommended to Peru to ensure that human rights defenders, victims of human rights violations, witnesses, prosecutors, forensic experts, journalists and trade union workers be allowed to carry out their work freely without fear of intimidation.

46. Ecuador took note of efforts to overcome the criminal acts of the Shining Path and the steps towards the elimination of impunity. It also noted the Ombudsman's Office and the Registry for Enforced Disappearances. It noted that Peru's report indicated that 75 per cent of the victims of armed conflict belonged to indigenous communities and expressed their wish not to have these conflicts repeated among the Peruvian people. Ecuador requested further information on measures implemented and action taken, and on the results achieved in this regard.

47. In response to some of the questions raised, Peru stated that two bodies are devoted to reparations further to the TRC and the Integral programme of Reparations: the High Level Committee deals with collective reparations and the Council for Reparations prepares a registry of victims allowing for the provision of individual reparations. Both bodies depend directly on the President of the Council of Ministers, highlighting the interest of the State in this area. Peru added that in the last two years, the Council allocated about \$US 37 million to comply with the functions of the integral plan of reparations, which guides the activities of the High Level Committee and the Council for Reparations. The collective reparations programme was launched in 2007 in an area greatly affected by terrorism. There is a commitment to provide reparations for victims of violence. Peru stated that additional detailed information on the reparations programmes can be found in the national report and in information already provided.

48. On the problem of identity documents, Peru stated that one of the major problems of exclusion (which is also related to terrorist actions in the past) is the lack of a document of legal identity; a significant number of persons, including minors, do not have a birth registration document or a national identity card. One of Peru's priorities is therefore to guarantee the right to a name and identity for all persons, a legal right recognized in the Constitution. The RENIEC (*Registro Nacional de Identificación y Estado Civil*), which is the body responsible for this issue, is implementing the national plan for the restitution of identity called '*Documentando a los indocumentados*' covering the period of 2005-2009 to ensure that all Peruvians can exercise their right to a national identity. The RENIEC also works with the poorest and with members of rural families. Finally, Peru mentioned that there is a special norm to facilitate the restitution of identity documents in places where the registers had disappeared. Regarding the question on access to health, Peru responded that there has been an effort made by the State with participative programmes to combat poverty. Poverty rates have been going down and Peru provided statistics in this regard. It drew attention, in this regard, to the valuable support provided by the Roundtable for Consultation on the Fight against Poverty, which included participation by the State and all relevant

stakeholders. Peru has also designed social support programmes with considerable resources. The *Crecer* and *Juntos* projects are designed to fight extreme poverty and combat child exclusion.

49. Regarding supposed complications faced by the Special Rapporteur on freedom of expression who was not able to visit the country, Peru stressed that this information is simply not correct, noting that Peru did not impose any restrictions on the visit of the mandate holder. Peru has not placed any restrictions on any visit, adding that it has welcomed the visits of four special procedures in the last years. There is a request mentioned in the OHCHR compilation report in this regard, but neither the Ministry for Foreign Affairs nor the Permanent Mission has a record of this request. Peru stated that the Government is fully committed to freedom of expression and would welcome a request by this Special Rapporteur to visit the country, and is equally ready to accept requests for information.

50. Peru denied that NGOs were excluded from participating in the National Human Rights Council. It referred to the publication in the Official Gazette of Supreme Decree 008/2008 which modifies regulations, not to exclude NGO, but simply to permit Peru to design its own legal defence strategies when it has to answer to complaints of human rights violations, including those sponsored by NGOs. The State also has the right to design its own strategies. The published decree states that the National Human Rights Council maintains cooperation with the Peruvian Episcopal Conference, the Evangelical Council of Peru and other institutions with related objectives and functions, including the *Coordinadora Nacional de Derechos Humanos* and others. Peru reiterated that the system is not exclusive, but rather inclusive. The Minister of Justice also referred to a recent message to this effect delivered during her press conference by a well-known human rights representative, Monsignor Luis Bambaren.

51. Regarding overcrowding and the health situation in the prisons, as well as trial delays, Peru referred to its discussion of these issues in the national report and in the introductory statement. Peru has recognized that the situation in the prisons is incompatible with the proper development of society, and referred again to the national plan for the development of the prison infrastructure. Regarding threats to journalists and rights of human rights defenders and witnesses to be protected, Peru emphatically denied that there is any link between threats and persecution against journalists. Rather, there is the greatest possible freedom of expression, and necessary safeguards are provided to such persons by the law and by specific governmental actions. Peru ended by stating its thanks for the other questions which it did not have the time to address, that some had been answered in the national report, and that it remained prepared to provide answers in writing.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

52. **In the course of the discussion, the following recommendations were made to Peru:**

- 1. To continue paying attention to promoting and protecting the human rights of vulnerable groups (Philippines), especially improving the situation of indigenous peoples (Algeria);**
- 2. To consider applying the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity as a guide to assist in policy development (Slovenia);**
- 3. To ratify the second Optional Protocol to ICCPR (Portugal) to abolish death the penalty (United Kingdom) and to maintain the de facto moratorium on executions that has been in force since the 1970s (Italy, Philippines).**

4. (a) To promptly, impartially and thoroughly investigate all reports of acts of torture and ill-treatment, and torture and forced disappearance perpetrated by agents of the State, ensuring that the military criminal justice system does not carry out these investigations, and take further efforts to ensure that those who report acts of torture or ill-treatment are protected from intimidation and reprisals and to implement the recommendations of the Committee against Torture made in this regard (Canada);
  - (b) To cooperate more closely with the Committee against Torture especially by setting up a national complaint registration and investigation system and a national preventive mechanism (Mexico);
5. To continue to implement its policies, plans and services to protect the advancement of women and to protect them against violence (Chile) and expand the definition of violence against women in accordance with the recommendations of CEDAW (Turkey);
6. To undertake legislative reforms to criminalize trafficking in persons, in accordance with the definition contained in the Palermo Protocol (Mexico);
7. In accordance with the conclusions adopted by the Committee on the Rights of the Child in 2006, measures should be increased to stop child labour and to promote social reintegration of child and adolescent victims of exploitation (Italy);
8. To continue to cooperate with the activities of the Ombudsman (Republic of Korea);
9. To intensify efforts in fully implementing all the recommendations of the Truth and Reconciliation Commission (TRC), in particular with regard to victims' compensation and institutional reforms (France, Canada, Philippines, Germany, Republic of Korea), and to report back to the Human Rights Council. This should include the investigation of all cases of human rights violations committed during the twenty-year armed conflict and bringing to justice those responsible in trials meeting international standards and granting reparations to victims (Netherlands). The TRC implementation should also take into account the situation of vulnerable groups and institutional reforms (United Kingdom);
10. To provide the National Council for Reparations with financial and other resources (Belgium);
11. To further strengthen the capacities and independence of the judicial system and to effectively combat corruption within the judiciary (Germany);
12. To take measures to address the issue of prison overcrowding and poor prison conditions, including providing prisoners with access to medical staff and court-appointed counsel (Canada), especially in the Challapalca prison where detainees live under extreme climatic conditions (Uruguay);
13. To expedite prosecution of cases of violence and intimidation of the media, impose penalties for government officials convicted of these offences and

**publicly demonstrate support for freedom of expression by denouncing violence against and intimidation of the media in Peru (United States of America);**

- 14. To ensure that human rights defenders, including victims of human rights violations, witnesses, prosecutors, forensic experts, journalists and trade union workers, can carry out their human rights work freely and without fear of intimidation (Australia, the Netherlands) and that Peru report back to the Human Rights Council about further concrete measures or actions taken in this regard (Netherlands). Peru should also consider developing a national policy of protection of human rights defenders, which could consist of a national system of protection of witnesses (Belgium) and human rights defenders (Brazil);**
- 15. To counter the adverse effects of economic activities such as oil production and mining on the full enjoyment of some economic and social rights of communities living in adjacent territories (Turkey);**
- 16. To consider signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Mexico, France);**
- 17. To report regularly to human rights treaty bodies and to respond to special procedures' communications and questions (Slovenia);**
- 18. To address the issue of identity through issuing identification papers to those lacking them (Slovenia);**
- 19. To ensure that a gender perspective is fully integrated in the next stages of the review, including in the outcome of the Universal Periodic Review and that the gender perspective be systematically and continuously integrated in this follow-up process (Slovenia);**
- 20. To demonstrate its commitment to coordinating with civil society, including NGOs, academics, and research institutions, as it develops and implements domestic human rights policy (United States of America) and to involve them in the follow-up work to this review, as noted in the national report of Peru (United Kingdom).**

**53. The response of Peru to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session.**

**54. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.**

### **III. VOLUNTARY COMMITMENTS UNDERTAKEN BY THE STATE UNDER REVIEW**

**55. Peru referred to commitments undertaken, in particular with regard to the following issues:**

- (a) submitting outstanding reports to treaty bodies and in this regard, the concrete timetable to submit the outstanding reports within the framework of the International Convention on the Elimination of All Forms of Racial Discrimination (December 2008), the International Covenant on Economic, Social and Cultural Rights (December 2008), International Covenant on Civil and Political Rights (June 2009);**

(b) the implementation of obligations under the Optional Protocol to CAT, ensuring the establishment of one or various independent national preventive mechanisms; and

(c) the implementation of the National Human Rights Plan of Action, highlighting the importance of maintaining a dialogue as a tool towards the implementation of the national human rights agenda, as well as its commitment to strengthen the National Human Rights Council in this regard.



**Annex**

**Composition of the delegation**

The delegation of Peru was headed by Her Excellency Ms. Rosario Fernandez, Minister of Justice, and composed of ten members:

H.E. Mr. Eduardo Ponce Vivanco, Ambassador, Permanent Representative of Peru to the United Nations in Geneva;

Mr. Elmer Schialer, Deputy Permanent Representative of Peru to the United Nations in Geneva;

Mr. Carlos Chocano Burga, Counselor, Permanent Mission of Peru to the United Nations in Geneva;

Mr. Juan Pablo Vegas, Counselor, Human Rights Director of the Ministry of Foreign Affairs;

Mr. Alejandro Neyra, First Secretary;

Ms. Claudia Guevara, Second Secretary;

Mr. Inti Zevallos, Second Secretary;

Mr. Giancarlo León, Second Secretary;

Mr. Ruben Bolo;

Mr. Tito Liñan.

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