



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

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## Committee against Torture

### List of issues prior to submission of the eighth periodic report of Peru\*

#### Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

##### Issues identified for follow-up in the previous concluding observations

1. In its preceding concluding observations,<sup>1</sup> the Committee requested that the State party provide, by 7 December 2019 at the latest, information on follow-up to the Committee’s recommendations on the national preventive mechanism (para. 15), forced sterilizations (para. 37) and human rights defenders and journalists (para. 49). Although a response containing the information requested<sup>2</sup> was received from the State party on 30 September 2021, the Committee regrets the delay with which it was submitted,<sup>3</sup> which prevented it from being considered under the procedure on follow-up to concluding observations.

##### Articles 1 and 4

2. With reference to the Committee’s previous concluding observations,<sup>4</sup> please indicate the steps that have been taken since the consideration of the previous periodic report to bring article 321 of the Criminal Code into line with article 1 of the Convention.

##### Article 2<sup>5</sup>

3. With reference to the previous concluding observations,<sup>6</sup> please provide detailed information on measures that the State party has taken to ensure that, in practice, each detainee is afforded all fundamental protections from torture and ill-treatment from the moment of arrest. In that regard, please provide information on any disciplinary measures taken during the period under review against law enforcement personnel who did not immediately allow persons deprived of their liberty to benefit from these protections.

\* Adopted by the Committee at its seventy-second session (8 November–3 December 2021).

<sup>1</sup> [CAT/C/PER/CO/7](#), para. 50.

<sup>2</sup> [CAT/C/PER/FCO/7](#).

<sup>3</sup> See the reminder sent by the Rapporteur for follow-up to concluding observations on 30 April 2020.

<sup>4</sup> [CAT/C/PER/CO/7](#), paras. 10–11.

<sup>5</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

<sup>6</sup> [CAT/C/PER/CO/7](#), paras. 12–13.



4. Bearing in mind the previous concluding observations,<sup>7</sup> please provide information on the steps that have been taken to combat gender-based violence, particularly with regard to cases involving the acts or omissions of State authorities or other entities for which the State party is responsible under the Convention. Please also provide updated information on the protection and support services available to victims of gender-based violence related to acts or omissions of State authorities. Please include comprehensive statistical data, disaggregated by age and ethnic origin or nationality of the victims, on the number of complaints of gender-based violence made since the consideration of the seventh periodic report of Peru and on the investigations, prosecutions, convictions and sentences resulting from those complaints. Please indicate whether the State party has taken any specific steps to discourage the use of conciliation and other forms of alternative dispute resolution in cases involving criminal allegations of violence against women. Please provide updated information on the measures taken to improve mandatory training programmes for judges, prosecutors and law enforcement officials on the prosecution of gender-based violence and to carry out public awareness-raising campaigns concerning all forms of violence against women.

5. Please provide updated data, disaggregated by the victims' age, sex and ethnic origin or nationality, on the number of complaints received, investigations carried out, proceedings initiated and convictions returned in cases of trafficking in persons since the consideration of the State party's previous periodic report. Please also provide information on the provision of redress to victims of trafficking during the period under review, including data on the number of persons who benefited from protection and support measures for victims.

### **Article 3**

6. Please provide detailed information on any policy and institutional changes in the area of asylum and refugee protection, in particular since the closure of land borders as a result of the coronavirus disease (COVID-19) pandemic. Bearing in mind the Committee's previous concluding observations,<sup>8</sup> please describe the measures taken during the period under review to ensure that no one is returned to a country where he or she would be at risk of torture. Please comment on reports that the online system for processing asylum applications has been out of service since October 2020. Please explain how, in practice, the State party ensures effective access to the refugee status determination procedure. Please indicate the measures taken to ensure compliance with procedural safeguards against refoulement. Please indicate whether the State party has taken the necessary steps to allow applications for asylum to be submitted to the Special Commission for Refugees at border posts, police stations and military posts and ensure that the officials assigned to those posts and stations receive the relevant training. Please also provide information on measures to identify vulnerable persons, such as victims of torture or similar trauma, among asylum seekers in Peru and to ensure that their specific needs are taken fully into consideration and addressed in a timely manner. Please indicate whether all persons whose expulsion, return or extradition has been ordered are informed of their rights to seek asylum and to appeal a decision authorizing an expulsion, and note whether such appeals have suspensive effect. Please provide information on how the State party ensures that asylum seekers have access to legal aid and interpretation services during the asylum procedure.

7. Please indicate how many asylum applications have been received during the period under review, how many such applications have been granted and how many of those that have been granted were granted because the applicant had been tortured or might be tortured if returned to his or her country of origin. Please provide updated information on any avenues for appeal, any appeals that have been filed and the outcome of those appeals. Please include information, disaggregated by sex, age and country of origin or receiving country, on the number of persons who have been returned, extradited or expelled since the consideration of the State party's previous report. Please provide a detailed account of the grounds for returning those persons and a list of the countries to which they were returned. Has the State party put in place mechanisms to monitor the situation of vulnerable individuals and groups

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<sup>7</sup> Ibid., paras. 38–39.

<sup>8</sup> Ibid., paras. 46–47.

in the countries to which they are returned? Please indicate what measures the State party has taken to prevent collective expulsions and to ensure that all expulsion orders are based on an individual assessment and are conducted in strict compliance with the principle of non-refoulement. Please also indicate what steps the State party has taken to prevent summary returns and collective expulsions and to ensure that all expulsion orders are based on an individual assessment and are conducted in strict compliance with the principle of non-refoulement.

8. Please indicate how many returns, extraditions and expulsions have been carried out by the State party during the period under review on the basis of the acceptance of diplomatic assurances or equivalent guarantees and in how many cases the State party has offered such assurances or guarantees. Please also provide details of the measures that have been taken in such cases with regard to follow-up.

#### **Articles 5–9**

9. Please provide information on the legislative and other measures taken by the State party during the period under review to implement article 5 of the Convention, in particular to establish its jurisdiction over cases of torture where the alleged offender is present in any territory under its jurisdiction and it does not extradite him or her. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please clarify what treaties or agreements on mutual legal and judicial assistance the State party has entered into, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

#### **Article 10**

10. With reference to the previous concluding observations,<sup>9</sup> please provide updated information on the training programmes on human rights and the prohibition of torture that the State party has developed to ensure that all public servants, particularly members of the National Police and the Armed Forces, personnel of the judicial branch, prison staff and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, have full knowledge of the provisions of the Convention and the prohibition of torture and are aware that breaches will not be tolerated, that they will be investigated and that those responsible will be prosecuted. Please indicate whether law enforcement officials receive adequate training on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Please provide information on the programmes used to train police officers and other law enforcement officials in non-coercive investigation techniques. Please indicate in each case the number, institutions and percentage of public servants who have benefited from such training programmes. Please also indicate whether the State party has considered establishing a methodology for evaluating the effectiveness and impact of its training programmes in reducing the number of cases of torture and ill-treatment. If so, please provide information in this regard. Please also provide information on the measures taken to give effect to the provisions of article 10 (2) of the Convention. Lastly, please provide detailed information on training programmes that enable judges, prosecutors, forensic doctors and medical personnel who work with persons deprived of liberty to detect and document the physical and psychological effects of torture and indicate whether the programmes contain specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

#### **Article 11**

11. Please describe the procedures in place to implement article 11 of the Convention and provide information on interrogation rules, instructions, methods and practices or arrangements for custody, especially those adopted or revised since the consideration of the State party's previous periodic report. Please also indicate the frequency with which they are

<sup>9</sup> Ibid., paras. 17 (e), 21 (d) and 30–31.

revised. Please also indicate what steps have been taken to ensure that all law enforcement officials can be effectively identified at all times when carrying out their functions.

12. With reference to the previous concluding observations,<sup>10</sup> please describe the measures taken by the State party to improve conditions of detention, including those aimed at reducing prison overcrowding and promoting the use of alternatives to deprivation of liberty, both before and after trial. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the numbers of pretrial detainees and convicted prisoners and on the occupancy rate of all places of detention. Please specify what laws and policies are in force regarding the use of pretrial detention and indicate what steps are taken to prevent the excessive use of such detention. Please provide information on measures to ensure that pretrial detainees are separated from convicted persons. Please also provide information on any action taken in response to the Committee's concerns regarding the inadequate food and water, poor lighting, ventilation and heating and insufficient sanitation and hygiene facilities in detention centres. Please indicate the measures that have been taken to continue to ensure that the methods of searching prison inmates and their visitors are not degrading.

13. Please provide information on steps taken by the State party during the period under review to meet the special needs of women and minors in detention.<sup>11</sup> Please indicate whether prisons have protocols on the treatment of certain groups of inmates, such as persons with disabilities, foreign nationals, older persons and lesbian, gay, bisexual, transgender and intersex persons.<sup>12</sup>

14. Please indicate how the State party ensures that the necessary human and material resources are allocated for proper medical care in prisons, including obstetric and gynaecological care for women prisoners.<sup>13</sup> Please provide detailed information on the measures that have been taken to ensure that detainees receive medical screenings upon their arrival in prison and to stop the spread of infectious diseases within prisons.<sup>14</sup> Please also indicate what measures have been taken to treat drug addiction in prisons. In addition, please indicate whether the strategies and programmes for the prevention and detection of suicide in prisons have been reviewed.<sup>15</sup>

15. Bearing in mind the previous concluding observations,<sup>16</sup> please provide statistical data on the number of deaths of persons deprived of their liberty during the period under review, disaggregated by place of detention, sex, age, ethnic origin or nationality and cause of death. Please describe how these deaths were investigated, what the outcome of the investigations was and what measures have been taken to prevent similar cases in the future. Please indicate whether, in any of these cases, the relatives of the deceased received compensation. Please provide information on acts of inmate-on-inmate violence, including cases involving possible negligence by prison officials, and on the number of complaints filed in that regard and the results of investigations into those complaints. Please also provide information on the measures taken during the period under review to ensure security inside prisons. In this regard, please provide information on the investigation into the deaths of nine inmates in a riot at the Miguel Castro Castro prison, east of Lima, on 27 April 2020.

16. In light of the previous concluding observations,<sup>17</sup> please provide information on the steps taken by the State party to ensure that its legislation and practices relating to the use of solitary confinement in detention centres, including youth diagnostic and rehabilitation centres, are in line with international standards.

17. Please provide details on the efforts made by the State party to alleviate overcrowding and improve the facilities and material conditions in youth diagnostic and rehabilitation centres. Please also provide information on the specific steps taken by the State party in

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<sup>10</sup> Ibid., paras. 24–25.

<sup>11</sup> Ibid., paras. 24 and 25 (f).

<sup>12</sup> Ibid., para. 23.

<sup>13</sup> Ibid., paras. 24 and 25 (e).

<sup>14</sup> Ibid., paras. 28 and 29 (e).

<sup>15</sup> Ibid., paras. 28 and 29 (f).

<sup>16</sup> Ibid., paras. 28–29.

<sup>17</sup> Ibid., paras. 26–27.

response to concerns raised about the lack of access to adequate medical services and the absence of an internal complaints mechanism, among other irregularities identified by the national preventive mechanism during its visits to youth diagnostic and rehabilitation centres, child and adolescent protection centres run by the National Police and residential care centres. Please also provide detailed information on the investigation into alleged assaults on children in these centres.

18. Please provide updated data on the number of asylum seekers and immigrants in an irregular administrative situation who are deprived of liberty in the State party. Please indicate any measures taken by the State party during the period under review to ensure that detention of asylum seekers and immigrants in an irregular situation is only used as a last resort, where necessary and for as short a period as possible, and to further implement in practice alternatives to the deprivation of liberty.

19. Bearing in mind the previous concluding observations,<sup>18</sup> please provide detailed information on any investigations conducted during the period under review into complaints of shortcomings or irregularities in the use of electroconvulsive therapy on individuals admitted to the Hermilio Valdizán National Hospital, located in Santa Anita, a district in the Province of Lima. Please also provide information on protocols on the use of restraint and seclusion measures in psychiatric and social care institutions. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with intellectual or psychosocial disabilities. Please also describe the situation with respect to alternative forms of treatment, such as community-based rehabilitation services and other outpatient treatment programmes.

20. In line with the previous concluding observations<sup>19</sup> and in light of the State party's response regarding the action it has taken in follow-up to them,<sup>20</sup> please provide information on the visits to places of deprivation of liberty by the national preventive mechanism during the period under review and on the measures taken by the State party in response to the recommendations made by the mechanism. Please specify whether the places visited included psychiatric hospitals and other institutions for persons with intellectual or psychosocial disabilities. Please describe the steps taken to ensure that the national preventive mechanism has the budget, facilities, resources and functional autonomy needed for it to fully execute its mandate. Please indicate whether the staff of the national preventive mechanism have expertise in the law and health care and whether they can enter, freely and unannounced, all places of deprivation of liberty and hold private conversations with the people imprisoned or detained there. Please also specify whether non-governmental organizations are authorized to enter prisons to verify and monitor respect for the rights of persons deprived of their liberty.

### Articles 12 and 13

21. With reference to the previous concluding observations,<sup>21</sup> please provide statistical data, disaggregated by sex, age, ethnic origin or nationality and place of detention, on allegations of torture, ill-treatment and excessive use of force during the period under review. Please also provide information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions imposed. Please provide examples of relevant cases or judicial decisions. According to the information in the Committee's possession, on 27 March 2020, the Congress of Peru adopted the Police Protection Act (No. 31012), which, among other things, eliminates the explicit requirement of proportionality in the use of force by the police and grants officers special legal protections, such as a presumption of reasonableness in the use of lethal force by members of the police force. Please give the reasons for these provisions and explain how they are consistent with articles 2, 11, 12, 13 and 16 of the Convention.

22. In light of the previous concluding observations,<sup>22</sup> please indicate the specific steps that the State party has taken to prevent and combat attacks by the police on individuals based

<sup>18</sup> Ibid., paras. 42–43.

<sup>19</sup> Ibid., paras. 14–15.

<sup>20</sup> CAT/C/PER/FCO/7, paras. 2–10.

<sup>21</sup> CAT/C/PER/CO/7, paras. 16–17 and 20–23.

<sup>22</sup> Ibid., paras. 22–23.

on those individuals' actual or perceived sexual orientation or gender identity. In particular, please provide statistical data, broken down by the victims' age, sex and ethnic origin or nationality, on complaints, investigations, prosecutions and convictions in cases involving attacks by the police on lesbian, gay, bisexual, transgender and intersex persons. Please also comment on reports of abuses, acts of intimidation and extortion, excessive use of force, harassment and sexual assault against sex workers by members of the Peruvian National Police, municipal security services and the armed forces.

23. With reference to the previous concluding observations,<sup>23</sup> please indicate what progress has been made in the investigation and prosecution of acts of torture and other serious human rights violations that took place during the internal armed conflict from 1980 to 2000.

#### **Article 14**

24. Bearing in mind the previous concluding observations,<sup>24</sup> please provide information on redress and compensation measures, including means of rehabilitation, ordered by the courts or other State bodies and effectively provided to victims of torture or their families since the consideration of the previous periodic report. This information should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on ongoing reparation programmes, including those providing for the treatment of trauma and other forms of rehabilitation, that are offered to victims of torture and similar trauma, and on the material, human and budgetary resources allocated to these programmes to ensure their effective functioning. Please indicate the scope and degree of implementation of the Comprehensive Reparations Plan for victims of the violence that occurred between 1980 and 2000 and the resources that have been allocated for it to be properly implemented. Has the State party eliminated the discriminatory exceptions, noted by the Committee, to official recognition as a victim of torture and eligibility for reparation programmes for victims of violence related to the internal armed conflict?

#### **Article 15**

25. In light of the previous concluding observations,<sup>25</sup> please provide information on the specific measures that have been adopted to ensure respect in practice for the principle of the inadmissibility of evidence obtained through torture. Please also provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

#### **Article 16**

26. With reference to the previous concluding observations<sup>26</sup> and the information provided by the State party on the action it has taken in follow-up to them,<sup>27</sup> please provide updated information on measures taken to ensure the safety and physical integrity of journalists and human rights defenders, including members of indigenous peoples' organizations and land rights defenders. How many complaints of acts of violence and intimidation against journalists and human rights defenders have been filed during the period under review? Please provide detailed information on the outcome of the investigations and criminal proceedings relating to such complaints and the sanctions imposed on the individuals responsible for attacks, acts of intimidation and other criminal acts targeting journalists and human rights defenders. Please indicate the status of the draft protocol to protect human rights defenders provided for in Vice-Ministerial Decision No. 007-2016-JUS.

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<sup>23</sup> Ibid., paras. 32–33.

<sup>24</sup> Ibid., paras. 34–35.

<sup>25</sup> Ibid., paras. 18–19 and 31 (d).

<sup>26</sup> Ibid., paras. 48–49.

<sup>27</sup> CAT/C/PER/FCO/7, paras. 37–55.

27. With reference to the previous concluding observations<sup>28</sup> and the State party's response regarding the follow-up to them,<sup>29</sup> please describe in detail any progress made in the investigation and criminal proceedings relating to the alleged forced sterilization of more than 2,000 women.

28. With reference to the previous concluding observations,<sup>30</sup> please provide information on steps taken to legalize the voluntary termination of pregnancy in cases of rape, incest and severe fetal impairment.

29. Bearing in mind the previous concluding observations,<sup>31</sup> please provide information on the investigation and/or prosecution of the alleged abuse of soldiers completing voluntary military service and other military personnel in armed forces training schools. Please also indicate how many non-combat deaths there have been in the military since the consideration of the previous periodic report and what the circumstances of those deaths were. Please indicate whether, in any of these cases, the relatives of the deceased received compensation.

### **Other issues**

30. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that those measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to anti-terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

31. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the COVID-19 pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for the elderly, hospitals or institutions for persons with intellectual and psychosocial disabilities.

### **General information on other measures and developments relating to the implementation of the Convention in the State party**

32. Please provide detailed information on any other legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.

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<sup>28</sup> CAT/C/PER/CO/7, paras. 36–37.

<sup>29</sup> CAT/C/PER/FCO/7, paras. 11–36.

<sup>30</sup> CAT/C/PER/CO/7, paras. 40–41.

<sup>31</sup> Ibid., paras. 44–45.