

Observations on the human rights situations in the context of the protest of Peru



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

19 October 2023

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Observations on the human rights situation in the context of the protests in Peru

I. INTRODUCTION

1. This report summarises information documented by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and provides its observations on the human rights situation in Peru in relation to the protests that began on 7 December 2022. The report covers the period from 7 December 2022 to 15 September 2023, with a focus on events during the social protests in Peru between December 2022 and March 2023.

2. OHCHR considers that there are reasonable grounds to believe that human rights violations have been committed in the context of the protests in Peru. This includes violations of the rights to life, to physical integrity, to liberty, to judicial guarantees, to peaceful assembly, and to freedom from torture and cruel, inhuman and degrading treatment. Some of these violations would stem from structural issues related to the authorities' response to protests, including acts of violence that may occur in this context.

1.1. Context

3. The events of 7 December 2022 onwards arose in the context of an acute political and social crisis underway in Peru since 2016. In the last seven years, Peru has gone through six different presidents and three different legislatures.

4. Instability in Peru has been accentuated in the last two years, following the election in June 2021 of Pedro Castillo Terrones as President, by a narrow margin of votes.¹ The election, and the fact that certain political and social sectors contested its results, contributed a deepening of the fracturing of Peruvian society along ethnic-racial and social status lines, as well as increasing polarisation and political tensions.

5. During his 16 months in power, then President Castillo faced three attempts by Congress to remove him from office through motions for presidential impeachment (“vacancia”) under Article 113.2 of the Constitution, which states that the President of the Republic may be “vacated” for “permanent moral or physical incapacity, declared by Congress.”² The third motion was filed on 27 November 2022 for “moral incapacity” of the President, based primarily on an ongoing corruption investigation against him.³

6. On 7 December 2022, a few hours before the scheduled debate in Congress to vote on Castillo's third vacancy motion, the President announced in a televised speech that he had ordered a series of measures. These included the dissolution of Congress; the reorganisation of the Public Prosecutor's Office, the Constitutional Court, and the National Justice Board (all constitutionally autonomous entities); the establishment of a government of exception; and the

¹ National Electoral Board (Jurado Nacional de Elecciones), General Act of Proclamation of Results of the Election of the President and Vice-President of the Republic, Second Presidential Election, held on Sunday, June 06, 2021, available at: https://portal.jne.gob.pe/portal_documentos/files/637a2dda-73ba-4abc-95bf-294f14d454bb.pdf.

² Political Constitution of Peru, art. 113 (2), available at: https://cdn.www.gob.pe/uploads/document/file/198518/Constitucion_Politica_del_Peru_1993.pdf?v=1594239946

³ Congress of the Republic, Motion No. 1222, available at: https://leyes.congreso.gob.pe/Documentos/2021_2026/Mociones_de_Orden_del_Dia/Mociones_de_Orden_del_Dia/MC0122220211125.pdf

provision of a nationwide curfew. Congress met a few hours after the announcement of then President Castillo and considered that he had *inter alia* “attempted to usurp public functions, impede the functioning of the powers of the State and violate the order established by the Political Constitution”, resolving to declare “the permanent moral incapacity of the President of the Republic” as established in Articles 113, clause 2, and 117 of the Constitution of Peru and, consequently, declared the vacancy of the Presidency of the Republic.⁴ That same day, and in application of Article 115 of the Constitution, which establishes the presidential succession, the Congress swore in the then Vice President, Dina Boluarte Zegarra, as the new President of the Republic. On December 10, President Boluarte swore in the members of her cabinet.

7. On 7 December, then President Castillo was arrested by agents of the State security escort for allegedly unlawful conduct committed in flagrante delicto, and was taken to the Lima prefecture, where he was detained as an alleged co-perpetrator of the crimes of rebellion and conspiracy, as well as alleged perpetrator of the crime of abuse of authority and serious disturbance of the public tranquillity to the detriment of society.⁵ On 28 December 2022, the Supreme Court confirmed the 18-month preventive detention against former President Castillo for allegedly committing the crime of rebellion or, alternatively, conspiracy to commit rebellion against the State.

8. Investigations are ongoing against former President Castillo on corruption charges, including charges of crimes of criminal organisation, collusion and influence peddling. On 9 March 2023, the Supreme Court of Preparatory Investigation ordered that Castillo be held in preventive detention for 36 months in connection with these investigations.⁶

9. The events triggered protests throughout the country, channelling social discontent *inter alia* over the historical discrimination and political and socioeconomic marginalisation faced by a large part of the population, especially Indigenous Peoples. Many of these concerns have

⁴ Congreso de la República del Perú, Resolución del Congreso No. 001-2022-2023-CR, <https://www.congreso.gob.pe/Storage/modsnw/pdf/15248-s3Rr2Qs5Fb3Bo3Z.pdf> .

⁵ Criminal Code, arts. 346, 349, 376 and 315.

⁶ El Peruano, Poder Judicial ratifica 36 meses de prisión preventiva contra Pedro Castillo, 31 March 2023, available at: <https://www.elperuano.pe/noticia/208996-poder-judicial-ratifica-36-meses-de-prision-preventiva-contra-pedro-castillo/>.

been expressed for decades. In the information provided to OHCHR, the Government cited the political⁷ and institutional⁸ legal framework⁹ relevant to combating discrimination.

10. According to the Ombudsperson's Office, between 7 December 2022 and 20 February 2023, 1327 protests, 882 mobilisations, 240 shutdowns ("paralizaciones"), 195 rallies and sit-ins, 10 vigils and 60 peace marches were registered.¹⁰ Demonstrators demanded various political changes, mainly the closure of Congress, the formation of a Constituent Assembly to draft a new Constitution, the moving forward of the date of the general elections, the resignation of President Boluarte and the release of former President Castillo. As the demonstrations progressed, protesters also demanded justice for those killed and injured in the context of the protests.

11. During protests between 7 December 2022 and 30 March 2023, OHCHR recorded 50 civilians killed and at least 821 people injured, allegedly by security forces. Another 11 civilians died in the context of road blockades in accidents or due to lack of medical attention. The Government reported 980 members of the National Police of Peru injured and 1 policeman killed, as well as 36 members of the Armed Forces injured and 6 killed in the context of the protests (see section 2.1, below). Of these, OHCHR was able to verify 208 cases of police and military personnel injured during the protests. Some protesters also carried out acts of destruction of public and private property.

⁷ Government Report, paras. 24-29. General Government Policy for the present presidential term, PCM, Supreme Decree No. 042-2023-PCM, 25 March 2023, art. 4; National Policy for the Transversalisation of the Intercultural Approach (Ministry of Culture, 2015); the Sectoral Policy on Intercultural Health (Ministry of Health, 2016); the Sectoral Policy on Intercultural Education and Intercultural Bilingual Education (Ministry of Education, 2016); the National Policy on Native Languages, Oral Tradition and Interculturality to 2040 (Ministry of Culture, 2021); the National Policy on Culture to 2030 (Ministry of Culture, 2020); the National Policy on Decent Employment (Ministry of Culture, 2021); the National Policy on Native Languages, Oral Tradition and Interculturality to 2040 (Ministry of Culture, 2021); the National Policy on Afro-Peruvian People to 2030 (Ministry of Culture, 2022); and the National Multisectoral Policy on Human Rights to 2030 (currently under development).

⁸ Government Report, paras. 29-31, The National Commission against Discrimination (Ministry of Justice and Human Rights, 2013); the Guidance Service against Ethnic-Racial Discrimination (Ministry of Culture, 2021); the Multisectoral Commission of a permanent nature in charge of proposing and overseeing the implementation of strategic measures and actions for the sustainable and integral development of the indigenous peoples of the central jungle and the Regional Organisation of Amazonian nationalities of the central jungle, in the geographic territorial scope, with organisational jurisdictional bases in the departments of Junín, Pasco, Huánuco, Cusco and Ayacucho (Presidency of the Council of Ministers 2023); Multisectoral Commission of a permanent nature in charge of proposing, following up and supervising the implementation of strategic measures and actions for the integral development of indigenous or native peoples in the country" (Ministry of Culture, 2021).

⁹ Contributions and Comments on the Draft Report "Observations on the Situation of Human Rights in the Context of the Protests in Peru from December 2022 to March 2023" from the Office of the UN High Commissioner for Human Rights, 29 August 2023. (Aportes y Comentarios sobre el Proyecto de Informe "Observaciones sobre la Situación de los Derechos Humanos en el Contexto de las Protestas en el Perú de diciembre de 2022 a marzo de 2023", de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, 29 de agosto de 2023) (hereinafter "Government Report"), paras. 18-22. Inter alia, Criminal Code, arts. 2, 46 and 323; Law No. 28736 for the protection of indigenous or original peoples in a situation of isolation and in a situation of initial contact (2006); Law No. 29785 on prior consultation (2011); Law No. 29735 regulating the use, preservation, development, recovery, promotion and dissemination of the native languages of Peru (2011); Law No. 28983 on equal opportunities between women and men (2007); Law No. 29973 for persons with disabilities (2012); Law No. 30490 on the elderly (2016); Law No. 31155 that prevents and punishes harassment against women in political life (2021).

¹⁰ Ombudsperson's Office, Political Crisis and Social Protest: Ombudsperson's Balance after three months since the beginning of the conflict, March 2023, p. 23, available at: <https://www.defensoria.gob.pe/wp-content/uploads/2023/03/Informe-Defensorial-n.%C2%B0-190-Crisis-poli%CC%81tica-y-protesta-social.pdf>

12. One of the main demands of the protesters was related to the advancement of the general elections. Between December 2022 and March 2023, 13 bills proposing to advance the general elections were introduced in Congress.¹¹ All the bills were rejected in committee or shelved by the Congress of the Republic.

13. Although nationwide protests largely dissipated after February, a new mass demonstration, called the “Great National March” or the “Third Siege of Lima”, took place on 19 July 2023, followed by additional protests until 31 July 2023. OHCHR recorded at least 78 demonstrations throughout the country during these dates. According to information provided by the Government, social protests were registered in 64 provinces (32.7% of the country), with the highest numbers in Ayacucho, Cusco, Puno, and San Martín.¹² Road blockades were also registered in 23 provinces.¹³ The demonstrations demanded early elections, the resignation of President Boluarte and justice for the victims of the previous wave of protests.

14. In the information provided to OHCHR, the Government maintained that a series of measures were taken to prevent and protect the human rights of demonstrators during the July 2023 protests.¹⁴ This included measures to guarantee the rights of detainees,¹⁵ including vulnerable populations¹⁶ and women potentially victims of gender-based violence.¹⁷ Teams of prosecutors and the Institute of Forensic Medicine¹⁸ were deployed and on duty to attend to the

¹¹ (1) Bill No. 03755/2022-PE, 12 December 2022; (2) Bill No. 03784/2022-CR, 15 December 2022; (3) Bill No. 03819/2022-CR, 20 December 2022; (4) Bill No. 03805/2022-CR, 20 December 2022; (5) Bill No. 03819/2022-CR, 20 December 2022; (6) Bill No. 03936/2022-CR, 9 January 2023; (7) Bill No. 04058/2022-CR, 25 January 2023; (8) Bill No. 04077/2022-CR, 26 January 2023; (9) Bill No. 04081/2022-CR, 27 January 2023; (10) Bill No. 04105/2022-CR, 30 January 2023; (11) Bill No. 04101/2022-CR, 30 January 2023; (12) Bill No. 04147/2022-PE, 2 February 2023; (13) Bill No. 04189/2022-CR, 7 February 2023; (14) Bill No. 04189/2022-CR, 7 February 2023.

¹² Government Report, para. 54, citing Ombudsperson’s Office, Ombudsperson’s Report N° 0001-2023-DP/APCSG, Report on the demonstrations that took place on 19 July in Lima and regions, 2023, p. 2.

¹³ *Ibid.*, pp. 2-3.

¹⁴ Government Report, para. 43, citing Protocol for the attention of alleged situations affecting rights reported by civil society organisations in the context of social protests, Ministry of Justice, Ministerial Resolution No. 00097-2023-JUS, 16 February 2023; Protocol of joint action of the State for the articulation of services in contexts of detention, retention and police intervention with women and persons in vulnerable conditions, Ministry of Women and Vulnerable Populations, Supreme Decree N° 002-2023-MIMP, 8 February 2023; Guidelines for the Exercise of the Public Prosecutor’s Function regarding the Arbitrary or Illegitimate Use of Force by Agents Responsible for Guaranteeing, Maintaining and Restoring Internal Order, N° 534-2022-MP-FN, 20 March 2022.

¹⁵ Government Report, para. 48, referring to the fact that the Public Defence Service set up teams to provide on-site assistance every day between 19 and 25 July 2023, to help guarantee the right to defence and access to justice for persons who might be detained in the context of the demonstrations. Ministry of Justice and Human Rights, User Report No. 2866-2023-JUS-DGDP AJ/DALDV, 19 July 2023, p. 3 and 4.

¹⁶ Government Report, para. 48, referring to the fact that the Ministry of Justice adopted the Protocol for the care of persons in a situation of special vulnerability intervened and/or detained in the context of social protests. This Protocol contemplates specialised attention for children and adolescents; for women; the elderly; persons with disabilities; and LGBTI persons. Ministry of Justice, Ministerial Resolution No. 00096-2023-JUS, 16 February 2023.

¹⁷ Government Report, para. 45, referring to the fact that, on the day of the demonstrations, the Ministry of Women and Vulnerable Populations deployed more than 50 personnel to police stations in Lima and in the regions to attend to detainees who were possible victims of gender-based violence. Ministry of Women and Vulnerable Populations, Note No. D000674-2023-MIMO-DVMPV, 1 August 2023, para. 2.

¹⁸ Government Report, paras. 46 and 47. For its part, the Public Prosecutor’s Office ordered that all prosecutors of the Prosecutor’s Offices for Crime Prevention, the Family Prosecutor’s Offices of Lima and the Specialised Prosecutor’s Offices for Human Rights and Interculturality should remain on permanent duty on 19 and 20 July 2023. It also ordered that all professionals of the Institute of Forensic Medicine and Forensic Sciences in the

population during the protests. Measures were also taken to attend to the health needs of the population during the protests.¹⁹

15. The Government also noted that, for its part, the National Police issued directives on the need to respect human rights and on the use of lethal and less lethal force,²⁰ and the Ministry of Defence adopted lines of action for the intervention of the Armed Forces in the framework of states of emergency.²¹ On 17 July 2023, the Secretariat for Social Management and Dialogue of the Presidency of the Council of Ministers²² convened a meeting to coordinate prevention strategies in the context of the protests, with the participation of various sectors of the executive, as well as the Ombudsperson's Office and OHCHR.

16. These measures could have contributed to establishing better conditions for the exercise of human rights, reducing the number of cases of human rights violations, compared to the protests between December 2022 and March 2023. On 19 July 2023, the demonstrations were mostly peaceful, although during the evening hours, clashes were recorded in Lima in front of the Congress of the Republic, where groups of demonstrators threw stones, bottles and sticks and the police responded with less lethal weapons, mainly tear gas.²³

17. According to OHCHR's documentation, during the July 2023 protests, at least 12 police officers (7 on 19 July, 2 on 28 July and 1 on 29 July) and 64 civilians (at least 35 men and 24 women) were injured. Of the injured civilians, 38 (14 men and 9 women) were injured on 19 July, 12 (8 women and 4 men) on 22 July, 2 (1 woman and 1 man) on 26 July, 19 (6 women and 13 men) on 28 July and 3 on 29 July (all men). Another 19 people (14 men and 4 women) were arrested on charges of disturbances ("disturbios").

18. For its part, the Ombudsperson's Office reported the following numbers of wounded: 8 wounded (6 civilians and 2 police) on 19 July; 1 wounded on 26 July; 6 wounded (4 civilians

prosecutorial districts of Lima should remain on permanent duty on these days. Public Prosecutor's Office, Resolution No. 1710-2023-MP-FN, 14 July 2023; Public Prosecutor's Office, No. 003662.2023-MP-FN-SEGFIN.

¹⁹ Government Report, para. 53, citing Ministry of Health, Complementary Report No 069-2023-UFCOE SALUD-DIGERD/MINSA, 3 August 2023, The Ministry of Health deployed mobile emergency care services in Lima at strategic points, mobilising four ambulances, 23 health personnel and 20 technical team personnel.

²⁰ Government Report, paras. 49-51. The National Police of Peru reported that it ordered the relevant police entities to adopt measures "on the unrestricted respect for the right to life and physical integrity of persons attending demonstrations, as well as other fundamental rights." Command Order No. 202300012116-COMASGEN-CO-PNP/OFIPOI, 13 July 2023. It was also reiterated that police chiefs should issue instructions on police intervention in accordance with the "normative framework of respect for human rights and the progressive use of force", and that they should adopt security measures in the face of "any alteration of public order and acts against public and private patrimony." Ministry of Interior, Oficio No. D000035-2023-IN-VSP-DGSD, 14 August 2023, annex. Also adopted Directive No. 13-2023-CG PNP/EMG, Guidelines for the appropriate use of non-lethal or less lethal means of policing in law enforcement, maintenance and restoration of law and order, 19 July 2023.

²¹ Government Report, para. 52. Ministerial Resolution No. 00683-2023-DE, Defence Sector Guidelines for the intervention of the Armed Forces, in support of the National Police of Peru, in the areas established in Supreme Decree No. 080-2023-PCM, 19 July 2023, available at: <https://www.gob.pe/institucion/mindef/normas-legales/4447909-00683-2023-de>.

²² Government Report, para. 48, citing Presidency of the Council of Ministers, Oficio Multiple No. D000067-2023-PCM-SGSD, 13 July 2023.

²³ Government report, para. 57, citing Ombudsperson's Office, Ombudsperson Report N° 0001-2023-DP/APCSG, Report on the demonstrations that took place on 19 July in Lima and regions., 2023, p. 3. The Government also reported the seizure of facilities at the National University of Cajamarca by a group of students and the burning of a cardboard box at the door of the Prefecture of Huancavelica. Government report, para. 56.

and 2 police) on 28 July; and 3 wounded (2 civilians and 1 police) on 29 July.²⁴ The Ministry of Health reported 33 injuries requiring medical attention between 19 and 31 July, including 5 hospitalisations and 28 medical discharges.²⁵ The Public Prosecutor's Office documented 31 injured (23 civilians and 8 police, of which 19 were men and 12 women) and 17 people detained (15 men and 2 women).²⁶

19. In the context of the crisis and protests, the Government of the Republic of Peru extended invitations and cooperated with various human rights mechanisms of the United Nations and the Inter-American Human Rights System. For example, between 11 and 13 January 2023, the Inter-American Commission on Human Rights conducted a working visit to Peru to observe the human rights situation in the context of the institutional crisis and protests that began in December 2022. Previously, between 20 and 22 December 2022, the Executive Secretariat of the Inter-American Commission conducted a preparatory technical mission to Peru.

20. On 25 January 2023, the human rights situation in Peru was considered for the fourth time by the Universal Periodic Review (UPR) mechanism, with the participation of the delegation of the Republic of Peru. The Peruvian State decided to support the recommendations on investigations of complaints in the context of social protests, use of force, among others.²⁷

21. On 3, 6 and 7 March 2023, the United Nations Human Rights Committee considered the sixth periodic report of Peru in hybrid format, with the participation of a delegation from the Republic of Peru. On 20 March 2023, the Committee adopted its concluding observations, which addressed several of the issues covered in this report.²⁸

22. On 3 May 2023, the Inter-American Commission on Human Rights published its report "Human Rights Situation in Peru in the Context of Social Protests".

23. Between 8 and 17 May 2023, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association visited Peru. In his end-of-mission statement, the Special Rapporteur made a series of observations and recommendations regarding the human rights situation in the country relevant to the scope of his mandate and thanked the Government of Peru for its cooperation before and during his visit.²⁹ The Special Rapporteur will present a report on his visit to Peru to the United Nations Human Rights Council in June 2024.

24. It should be noted that on 28 July 2023, the President of the Republic announced the re-launching of the National Agreement, incorporating all social actors, to discuss the social

²⁴ Government Report, para. 58, citing Ombudsperson's Office, Political Crisis and Social Protest, Daily Reports of 19, 26, 28 and 29 July.

²⁵ Government Report, para. 59, citing Ministry of Health, Supplementary Report No. 069-2023-UFCOE SALUD-DIGERD/MINSA, 3 August 2023.

²⁶ Government Report, para. 59, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 2.

²⁷ A/HRC/53/8/Add.1.

²⁸ CCPR/C/PER/CO/6.

²⁹ End of Mission Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Clément Nyaletsossi Voulé, on his visit to Peru, 8-17 May 2023, <https://www.ohchr.org/sites/default/files/documents/issues/association/statements/20230517-eom-peru-sr-freedom-assembly-association-en.pdf>.

agenda and pending political reforms. The President of the Republic also apologized, on behalf of the State, to the bereaved of all those killed and injured during the protests³⁰.

1.2. Methodology

25. Following an invitation from the Government, on 19 and 20 January 2023, OHCHR Director of Field Operations and Technical Cooperation visited Lima. During the visit, he met with high-level representatives of the Government, including the President of the Republic; the Prime Minister; the Vice-Minister of Foreign Affairs; the Minister of Justice and Human Rights; the Minister of Interior; and the Minister of Defence. The OHCHR Director also met with members of Congress and the Attorney General. Finally, he held meetings with the Ombudsperson *ad interim*, with the National Electoral Board (JNE) and with representatives of civil society. The information gathered during this visit was taken into account in the findings of the report.

26. From 6 to 29 March 2023, the OHCHR Technical Mission in Peru conducted a series of visits to the regions of Apurímac, Ayacucho, Cusco, Ica and Puno. In total, OHCHR interviewed more than 280 people, including 62 victims, 40 relatives of victims and 37 witnesses. Of those interviewed, 43% were women and 57% were men. Sixty-one percent of the people interviewed self-identified as indigenous or *campesino* (peasant). OHCHR also met during these visits with local and regional authorities, representatives of the Public Prosecutor's Office, the Ombudsperson's Office and health authorities. OHCHR also reviewed audiovisual material, official documents such as court records, and medical and autopsy reports.

27. This report and its findings are not based on a criminal investigation and do not attribute criminal responsibility. It is the responsibility of the competent Peruvian authorities to conduct the necessary investigations, including those to determine possible criminal responsibility, according to due process. OHCHR documented the reported cases following its methodology applied worldwide for human rights monitoring, in accordance with its mandate established in Resolution 48/141 of the United Nations General Assembly. Where the report draws legal conclusions, these take into account international human rights standards, in accordance with Peru's international legal obligations.

28. Of the total number of registered cases of deaths and injuries, OHCHR documented in depth 32 cases of civilian deaths and 53 cases of serious injuries, through interviews with victims, family members and/or witnesses, as well as on-site visits to Andahuaylas, Ayacucho, Cusco, Ica and Juliaca. The Government noted that the Public Prosecutor's Office reported 36 deaths in these regions.

29. The information contained in this report is used with full respect for the informed consent of the sources, as well as OHCHR's own assessment of any material risk of harm that such use may cause. This may entail removing identifying details to better ensure the confidentiality or protection of sources.

30. The draft report was shared with the Government on 8 August 2023. On 24 August the Government shared its "Observations on the human rights situation in the context of the

³⁰ Mensaje a la Nación, Presidenta de la República, Dina Ercilia Boluarte Zegarra, 28 de julio de 2023, <https://cdn.www.gob.pe/uploads/document/file/4914521/Mensaje%20a%20la%20naci%C3%B3n%20Fiestas%20Patrias.pdf>.

protests in Peru from December 2022 to March 2023” (“Government Report”). These observations have been reflected throughout this report.

II. KEY OBSERVATIONS

31. The right to peaceful assembly is affirmed in international instruments, including the International Covenant on Civil and Political Rights (ICCPR), to which Peru is a party.³¹ The fundamental right to peaceful assembly allows people to express themselves collectively and participate in shaping their societies.³² Freedom of peaceful assembly is essential to the exercise of many other rights, including the rights to freedom of expression, freedom of association and the right to participate in the conduct of public affairs. Participation, in its individual or collective expressions, ensures the development of societies, serving as a basis for the inclusive and rights-based resolution of differences and social issues.³³

32. Under the ICCPR, States have certain positive obligations to facilitate peaceful assemblies and enable participants to achieve their objectives. States must promote an enabling environment for the exercise of the right to peaceful assembly without discrimination and establish a legal and institutional framework within which the right can be exercised effectively.³⁴

2.1. Violence and other acts carried out in the context of protests

33. OHCHR notes that most of the demonstrations in Peru were carried out peacefully. However, there were also acts of violence by demonstrators and other individuals that resulted in persons injured, including police officers and members of the military, as well as in the destruction of public and private property. As detailed in this report, there were also cases of excessive use of force and other human rights violations by State officials.

34. International standards recognise the right to non-violent assembly. As noted by the United Nations Human Rights Committee, violence “typically entails the use by participants of physical force against others that is likely to result in injury or death, or serious damage to property.”³⁵ The fact that the participants are carrying objects that are or may be considered weapons is not necessarily sufficient to deem the conduct to be violent.³⁶ That has to be determined on a case-by-case basis, dependent on, among other considerations, domestic regulation on the carrying of weapons (especially firearms), local cultural practices, the existence of evidence of violent intent, and the risk of violence presented by the presence of such objects.³⁷

35. The ICCPR protects assemblies that include “disruptions” such as “vehicular or pedestrian movement or economic activity.”³⁸ As the Human Rights Committee states, these

³¹ Article 21.

³² Universal Declaration of Human Rights, art. 20; International Covenant on Civil and Political Rights, art. 21.

³³ Declaration on Human Rights Defenders, art. 5(a); CCPR/C/GC/37, Human Rights Committee, General Comment 37; Human Rights Council Resolution 24/5, The Rights to Freedom of Peaceful Assembly and of Association (1999), para. 2. See also A/HRC/31/66, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/17/28, paras. 31-32.

³⁴ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 24.

³⁵ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 15.

³⁶ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 20.

³⁷ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 20.

³⁸ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 7.

“consequences, whether intended or unintended, do not call into question the protection such assemblies enjoy.”³⁹ Violence against participants in a peaceful assembly by the authorities, or by agents provocateurs acting on their behalf, does not render the assembly non-peaceful.⁴⁰ Acts of violence do not justify a blanket restriction on the right to peaceful assembly. Any restriction on participation in peaceful assemblies should be based on a differentiated or individualised assessment of the conduct of the participants and the assembly concerned.⁴¹

36. Moreover, even in these situations, law enforcement officials should seek to de-escalate situations that might result in violence. Only the minimum force necessary may be used where it is required for a legitimate law enforcement purpose during an assembly.⁴² The use of force by State agents to address violent elements in demonstrations must always respect the principles of legality, necessity, proportionality, non-discrimination and precaution.

Acts affecting members of security forces

37. According to the National Police of Peru and the Joint Command of the Armed Forces, respectively, 980 police officers and 36 military personnel, the latter in operations in Puno and Ayacucho, suffered injuries in the exercise of their duties in the context of the protests between 7 December 2022 and 12 April 2023.⁴³ Of the 980 police officers injured, 8 were hospitalised.⁴⁴

38. OHCHR verified 208 cases of injured police (197) and members of the Armed Forces (11), including 4 women, during the demonstrations, based on information gathered and contrasted from official sources. In the cases documented by OHCHR, most of the injuries suffered by police and military were contusions (at least 52 cases), fractures (at least 4 cases) and cuts (at least 7 cases), mainly caused by stones and sticks, with at least one injury caused by explosives. At least eight of the cases documented by OHCHR involved serious injuries, including two police officers who were reportedly hit by a possible firearm projectile in Chanchamayo, Junín, on 16 December 2022.⁴⁵

39. On 9 January in Juliaca, a police officer was killed while on patrol with another officer. On 23 March 2023, the National Police of Peru arrested two people in connection with the incident, including a retired police officer.⁴⁶ In another case, on 4 March 2023, six members of the Armed Forces drowned in Ilave, Puno, when attempting to cross the Ilave River, while supporting the control of protests during the state of emergency in the region.

40. OHCHR expresses its deep regret for the incidents of violence against members of the police and the military forces and stresses the need to investigate these acts in proceedings observing due process and judicial guarantees. The Public Prosecutor’s Office reported that 27

³⁹ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 7.

⁴⁰ CCPR/C/GC/37, Human Rights Committee, General Comment 37, paras. 17 and 18.

⁴¹ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 38.

⁴² CCPR/C/GC/37, Human Rights Committee, General Comment 37, paras. 78 and 79.

⁴³ Government Report, para. 79, citing National Police of Peru, Directorate General of the Police Ombudsperson’s Office Oficio N°000224-2023/IN/DP, 5 April 2023.

⁴⁴ Government Report, para. 79, citing Oficio No. 000224-2023/IN/DP, 5 April 2023.

⁴⁵ National Police of Peru, Press Release No. 3577, December 2022, available at: https://www.policia.gob.pe/pnp/archivos/portal/doc/10730doc_NP%203577%20PNP%20EVACUADOS%20OR%20DIRAVPOL%20DIRTURBIOS.pdf

⁴⁶ Ministry of Interior, Juliaca: Two suspects arrested for allegedly being involved in the murder of sub-officer José Luis Soncco Quispe, 23 March 2023, available at:

<https://www.gob.pe/institucion/mininter/noticias/730932-juliaca-detienen-a-dos-sujetos-que-estarian-involucrados-en-asesinato-del-suboficial-jose-luis-soncco-quispe>.

persons were detained for the alleged crime of violence against an authority to impede the exercise of their functions;⁴⁷ all cases are at the preliminary investigation stage.⁴⁸

Destruction of public and private property

41. OHCHR documented 74 acts of destruction of public and private property in different regions of the country in the context of the demonstrations. At least 39 cases involved public property. The most affected government buildings were police stations (at least 11),⁴⁹ offices of the Public Prosecutor's Office (12)⁵⁰ and the judiciary (5),⁵¹ and the offices or private homes of local and regional administration officials (7). The Government also reported two attacks on the offices of the Ombudsperson's Office.⁵²

42. In the documented cases, significant losses were recorded, including damage to court records and forensic evidence. Many of the public buildings remain damaged as of the date of this report, affecting the provision of essential services to the population.

43. At least 23 cases of damage to private property were also recorded in Arequipa, Lima, Cusco, Puno, Huancavelica, Ica, Junín, Amazonas and Ayacucho.⁵³ Among the documented attacks were the seizure of facilities and vandalism of private companies (9), mining (3) and natural gas (1) projects, attacks with stones on media offices (6) and attempts to seize oil pipelines (2).

44. The Public Prosecutor's Office reported that 232 individuals are being investigated in relation to these acts for the alleged offence of simple criminal damage.⁵⁴ Of these, 192 cases are in the preliminary investigation stage and with respect 40 persons an immediate process has been applied.⁵⁵

45. On 11, 12, 14 and 15 December 2022, protesters gathered and attempted to occupy five airports in the cities of Andahuaylas, Ayacucho, Arequipa, Cusco and Juliaca. The interventions resulted in the disruption of services, apart from Andahuaylas, where the airport had been inoperative for commercial flights since 2018. Protesters managed to occupy airports for several hours in Andahuaylas, Arequipa and Ayacucho. Subsequently, there were recurring attempts to occupy the runways at Juliaca airport on 6, 7 and 9 January 2023. On 6 January 2023, according to the Government, approximately 9,000 people arrived at the airport, who allegedly carried out acts of destruction of perimeter fences and threw objects at the police.⁵⁶

⁴⁷ Criminal Code, art. 366.

⁴⁸ Government Report, para. 81, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 3.

⁴⁹ The Government reported 15 attacks on the property of the National Police of Peru. Government Report, para. 35.

⁵⁰ The Government reported that 30 premises of the Public Prosecutor's Office were affected, including 17 cases of destruction of property and 13 cases of burning of premises. Government report, para. 35.

⁵¹ The Government reported 18 attacks against the headquarters of the Judiciary. Government Report, para. 35.

⁵² Government Report, para. 35, citing Ombudsperson's Office, Ombudsperson's Report No. 190, 2023, p. 22 and 23.

⁵³ The Government reported 83 attacks on private property and the disruption of services. Government Report, para. 35.

⁵⁴ Criminal Code, art. 366.

⁵⁵ Government Report, para. 84, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 3.

⁵⁶ Government Report, para. 84, citing PNP, COMASGEN, Report No. 77-2023-COMASGEN-CO, PNP/DIVECS-SEC, 21 March 2023, para. 1.8, a.

46. Police and military forces were deployed to contain protesters and protect airport infrastructure. Most of the serious injuries and deaths of civilians during the protests occurred in this context (see section 2.3).

Roadblocks

47. Under international human rights law, mere disruption of vehicular or pedestrian movement or daily activities in the context of protests does not constitute an act of “violence.”⁵⁷ An assembly that remains peaceful while nevertheless causing a high level of disruption, such as an extended blocking of traffic, may be dispersed, as a rule, only if the disruption is “serious and sustained.”⁵⁸

48. According to the Superintendency of Land Transportation of Persons, Cargo and Merchandise (SUTRAN), between 8 December 2022 and 27 March 2023, 4,261 road blockades were recorded nationwide. During a three-week period, between 12 January and 3 February 2023, an average of 91 blockades per day were recorded, affecting 19 regions and 33 national highways across the country at their peak.⁵⁹ The day with the highest number of blockades recorded was 19 January, with 145 points of traffic interruption.

49. In some cases, the blockades seriously affected the lives and physical integrity of people who were not participating in the demonstrations. Between 12 December and 18 February, 11 people not involved in the demonstrations died as a result of the roadblocks, including 3 women and 3 children, allegedly due to lack of timely medical attention amid delays in crossing the blockades.⁶⁰ On 9 January 2023, a newborn who was being transported by ambulance from Yunguyo, Puno, to the regional hospital, died after a road blockade delayed his arrival at the hospital. The Public Prosecutor’s Office is conducting nine investigations in relation to these incidents, including for the alleged crime of homicide, culpable homicide and simple homicide.⁶¹

50. Some interviewees reported difficulties in accessing medical care due to blockades when transporting family members injured during the demonstrations. OHCHR documented that, in Chincheros, Apurímac, the father of a seriously injured minor suffered considerable delay due to roadblocks when he was taking his son to Ayacucho by ambulance for urgent medical attention. In Ilave, Puno, the son of a seriously injured man mentioned that his father died in the ambulance on the way to the hospital in Puno, after having to go through road blockades.

51. According to the Ministry of Economy and Finance, the protests and blockades during three months, left a balance of 2,150 million soles (US\$554 million) in economic losses as of February 2023.⁶² Economic activities, such as tourism, were also strongly affected, especially in regions with a high number of tourists, such as Cusco and Puno.

⁵⁷ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 15.

⁵⁸ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 85.

⁵⁹ Figures compiled by OHCHR from SUTRAN daily reports posted on Twitter.

⁶⁰ Of the deceased, 2 were in Arequipa, 3 in La Libertad, 4 in Cusco, 1 in Puno and 1 in San Martín.

⁶¹ Government Report, para. 87, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 4.

⁶² See Infobae, Economic losses from social protests reach 2,150 soles, estimates the MEF, 24 January 2023, available at: <https://www.infobae.com/peru/2023/01/24/perdidas-economicas-por-protestas-sociales-alcanzan-los-s2150-millones-estima-el-mef/>

52. The blockades also affected access to services and products. In January, in the regions of Cusco, Arequipa, Tacna, Puno and Madre de Dios, blockades interrupted the transport of food, medical supplies and the movement of people. In Madre de Dios, the crisis worsened at the end of January, causing severe shortages of basic necessities such as medicines, fuel and water, which impacted the population's enjoyment of economic and social rights.

2.2. Declarations of states of emergency and intangible zones

53. As demonstrations increased in different parts of the country, State authorities implemented measures that had a negative impact on the enjoyment of the right to peaceful assembly and other human rights.⁶³ Some of these measures raised concerns about their compatibility with international human rights law.

54. Under the ICCPR, the right to peaceful assembly may be subject only to such restrictions as are prescribed by law and are necessary in a democratic society in the interests of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.⁶⁴ The prohibition of an assembly may only be considered as a last resort, when less intrusive measures are not possible.⁶⁵ According to international standards, acts restricting peaceful assemblies in general, or without valid justification, would be disproportionate.⁶⁶

Declaration of states of emergency

55. From December 2022 to 15 September 2023, the Government has declared or extended the state of emergency on 19 occasions in different regions.⁶⁷ Of these, four were declared in

⁶³ According to the Peruvian Constitution, everyone has the right to assemble peacefully and without arms. Assemblies in private premises or those open to the public do not require prior notice. Those convened in public squares and thoroughfares require prior notice to the authorities. Political Constitution of Peru, art. 2.12.

⁶⁴ International Covenant on Civil and Political Rights, art. 21.

⁶⁵ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 37.

⁶⁶ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 38.

⁶⁷ (1) SD N° 139-2022-PCM, Supreme Decree declaring a State of Emergency in the provinces of Abancay, Andahuaylas, Chincheros, Grau, Cotabambas, Antabamba and Aymaraes in the department of Apurimac, on 12 December 2022; (2) SD N° 141-2022-PCM, Supreme Decree declaring a State of Emergency in the province of Ica in the department of Ica, on 12 December 2022; (3) SD N° 142-2022-PCM, Supreme Decree declaring a State of Emergency in the department of Arequipa, 13 December 2022; (4) SD N° 143-2022-PCM, Supreme Decree declaring a nationwide State of Emergency, 14 December 2022; (5) SD N° 009-2023-PCM, Supreme Decree declaring a State of Emergency in the departments of Puno, Cusco, Lima, in the Constitutional Province of Callao, in the province of Andahuaylas in the department of Apurimac, in the provinces of Tambopata and Tahuamanu in the department of Madre de Dios, and in the district of Torata, province of Mariscal Nieto in the department of Moquegua, as well as in some highways of the National Road Network, on 14 January 2023; (6) SD N°010-2023-PCM, Supreme Decree declaring a State of Emergency in the departments of Amazonas, La Libertad and Tacna, 19 January 2023; (7) SD N° 018-2023-PCM, declaring a State of Emergency in the departments of Madre de Dios, Cusco, Puno, Apurimac, Arequipa, Moquegua and Tacna, and enacting other provisions, 4 February 2023; (8) DS N°022-2023-PCM, Supreme Decree extending the State of Emergency for 30 calendar days declared in the department of Lima, in the Constitutional Province of Callao, and in the following roads of the National Highways: Pan-American Highway South, Pan-American Highway North, Central Highway, Southern Road Corridor Apurimac-Cusco-Arequipa and Southern Inter-Oceanic Road Corridor, on 13 February 2023; (9) SD N° 023-2023-PCM, Supreme Decree declaring a State of Emergency in the provinces of Putumayo and Mariscal Ramon Castilla in the department of Loreto, on 17 February 2023; (10) SD N°025-2023-PCM, Supreme Decree extending the State of Emergency for a term of sixty (60) calendar days, as of 19 February 2023, declared by SD N°010-2023-PCM, considering only the province of Condorcanqui and the districts of Imaza and Aramango of the province of Bagua, in the department of Amazonas, 18 February 2023; (11) SD N°027-2023-PCM, Supreme Decree extending the State of Emergency

December 2022, two in January 2023, six in February 2023, three in March 2023, two in April 2023, one in May 2023, one in June 2023 and two in July 2023. Each of these declarations of states of emergency and their extensions suspended a number of rights, including personal liberty and security, freedom of movement and freedom of assembly. Four other decrees, two in December and two in January, declared mandatory social immobilisation (“curfews”) in different regions.⁶⁸

56. For example, on 14 December 2022, a nationwide state of emergency was declared for a period of 30 days. The state of emergency suspended the rights to inviolability of the home, freedom of movement within the national territory, freedom of assembly, and the right to personal liberty and security. In its justification for rights-suspending measures, the decree referred to “various social conflicts at national level, registered as of 7 December 2022, which have been generating acts of violence and vandalism against public and private institutions, as well as aggressions against the personal integrity of citizens and authorities, which has generated a serious crisis situation at national level.”⁶⁹

57. The Human Rights Committee has expressed concern about “the frequency with which [Peru] has declared states of emergency and derogated from Covenant rights, including in relation to social protests, bearing in mind that derogations should be invoked only in truly exceptional situations.”⁷⁰ According to the ICCPR, if the State intends to derogate rights, it must be able to justify not only that there is a threat to the life of the nation, but also that all the rights-derogating measures are strictly required by the exigencies of the situation.⁷¹

for 30 calendar days in the province of Padre Abad in the department of Ucayali, 24 February 2023; (12) SD N°031-2023-PCM, Supreme Decree extending the State of Emergency for 30 calendar days in Ica, 10 March 2023; (13) SD N°032-2023-PCM, Supreme Decree extending the State of Emergency for 30 calendar days to the National Highways: Carretera Panamericana Sur, Carretera Panamericana Norte, Carretera Central, Corredor Vial Sur Apurímac-Cusco-Arequipa and Corredor Vial Interoceánica Sur, 10 March 2023; (14) SD N°037-2023-PCM, Supreme Decree extending the State of Emergency for 30 calendar days in La Libertad, 17 March 2023; (15) SD N°047-2023-PCM, Supreme Decree extending the State of Emergency for 60 calendar days in Puno, 6 April 2023. SD N°051-2023-PCM, Supreme Decree extending the State of Emergency for 30 calendar days to National Highways: Pan-American Highway South, Pan-American Highway North, Central Highway, Southern Road Corridor Apurímac-Cusco-Arequipa and Southern Inter-Oceanic Road Corridor, 16 April 2023; (16) SD N°060-2023-PCM, Supreme Decree extending the State of Emergency for 30 calendar days to National Highways: Carretera Panamericana Sur, Carretera Panamericana Norte, Carretera Central, Corredor Vial Sur Apurímac-Cusco-Arequipa and Corredor Vial Interoceánica Sur, 12 May 2023; (17) SD N°070-2023-PCM, Supreme Decree extending the State of Emergency for 60 calendar days in Puno, 4 June 2023; (18) Supreme Decree extending and establishing the State of Emergency in Highways of the National Road Network and in the Departmental or Regional Road Networks, Supreme Decree N° 080-2023-PCM, 13 July 2023; (19) Supreme Decree extending the State of Emergency in the department of La Libertad, Supreme Decree N° 081-2023-PCM.

⁶⁸ (1) SD N° 144-2022-PCM, Supreme Decree declaring the mandatory social immobilisation due to the current conflict situation, 15 December 2022; (2) SD N° 146-2022-PCM, Supreme Decree declaring the mandatory social immobilisation in the province of Huamanga of the department of Ayacucho due to the current conflict situation, 17 December 2022; (3) SD N° 013-2023-PCM, Supreme Decree extending the mandatory social immobilisation in the department of Puno declared by SD N°009-2023-PCM, 24 January 2023; (4) SD N° 002-2023-PCM, Supreme Decree declaring the mandatory social immobilisation in the department of Puno due to the current conflict situation, 10 January 2023.

⁶⁹ DS N° 143-2022-PCM, Supreme Decree declaring a State of Emergency at the national level, 14 December 2022.

⁷⁰ CCPR/C/PER/CO/6, Human Rights Committee, Concluding observations on the sixth periodic report of Peru, para. 12.

⁷¹ CCPR/C/21/Rev.1/Add.11, Human Rights Committee, General Comment No. 29, para. 5.

58. The 14 December 2022 state of emergency also authorised the participation of the Armed Forces in public security functions. The state of emergency stipulated that it is the police who maintain control of internal order “with the support of the armed forces.”⁷²

59. In general, the military should not be used to police assemblies.⁷³ In exceptional circumstances, such as states of emergency, when military personnel are deployed to maintain public order, the military should be subordinate to police-civilian authorities, must have received appropriate human rights training, and comply with the same international rules and standards as law enforcement officials.⁷⁴ OHCHR has not been able to determine whether joint police-military operations carried out during protests, such as in Ayacucho and Puno, were conducted under civilian command.

Declaration of the so-called “intangible zones”

60. On 15 February 2023, the Metropolitan Municipality of Lima declared the historic centre of the city as an “intangible zone”, prohibiting all forms of public and political demonstrations and gatherings that may put “public safety and/or health at risk.”⁷⁵ The decision, which was adopted for an indefinite period of time, covers the main historical points of congregation of demonstrations in Plaza San Martín, Plaza Dos de Mayo and the main avenues of the centre.

61. On 17 February 2023, the Municipality declared the Miraflores district of Lima an intangible zone, citing “high levels of violence and vandalism in recent weeks” that would justify the ban on demonstrating in the main avenues and parks of the area.⁷⁶

62. With regard to the declaration of so-called “intangible zones”, OHCHR recalls that, according to the Human Rights Committee, “as a rule, there can be no blanket ban on all assemblies in the capital city, in all public places except one specific location within a city or outside the city centre, or on all streets in a city.”⁷⁷ Peaceful assemblies should not be relegated to remote areas where they cannot effectively capture the attention of those who are being addressed, or the general public.⁷⁸

2.3. Use of force in the context of protests

Legal and institutional framework related to the use of force

⁷² Government Report, para. 92, citing DS N° 143-2022-PCM, Supreme Decree declaring the nationwide state of emergency, 14 December 2022.

⁷³ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 80.

⁷⁴ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 80; A/HRC/31/66, Joint Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and of the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper conduct of assemblies, para. 66. CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 80.

⁷⁵ Agreement No. 026 of 15 February 2023, available at: <https://busquedas.elperuano.pe/download/url/declaracion-el-centro-historico-de-lima-es-zona-intangible-acuerdo-n-026-2151829-1>.

⁷⁶ Ordinance No. 601/MM, 17 February 2023, available at:

<https://busquedas.elperuano.pe/normaslegales/ratifican-la-ordenanza-n-256-mm-que-declara-como-zona-restringida-a-miraflores/>. See also: <https://www.miraflores.gob.pe/concejo-municipal-oficializa-acuerdo-que-declara-zona-restringida-a-miraflores/>

⁷⁷ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 55.

⁷⁸ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 55.

63. According to the Human Rights Committee, law enforcement officials should seek to de-escalate situations that might lead to violence during demonstrations, are obliged to exhaust non-violent means and to give prior warning if it becomes absolutely necessary to use force.⁷⁹

64. The use of force by State security, both less lethal and lethal, must comply with the principles of legality,⁸⁰ necessity,⁸¹ proportionality,⁸² precaution and non-discrimination.⁸³ Otherwise, the deprivation of the right to life in the context of the State's use of force could be considered arbitrary and, in some cases, be considered an extrajudicial killing.⁸⁴

65. Any use of firearms by law enforcement officials in the context of assemblies should be limited to specific individuals in circumstances where it is strictly necessary to address an imminent threat of death or serious injury.⁸⁵ In addition, international human rights law and standards require mandatory reporting, review and investigation of lethal and other life-threatening incidents.

66. The Peruvian legal framework provides detailed regulations on the use of force by the police and armed forces.⁸⁶ With respect to the use of force by the National Police of Peru, the Law on Use of Force (Legislative Decree No. 1186⁸⁷) and its regulations⁸⁸ provide the main framework.⁸⁹ The Ministry of Interior has also adopted a Manual on Human Rights Applied to the Police Function (2018), which requires law enforcement personnel to use force in a

⁷⁹ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 78.

⁸⁰ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).

⁸¹ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). In Peru, Decree 1186 mentions that the determination of the level of differential and progressive force must consider factors such as cooperation, resistance, or aggression of the possible intervened person, as elements of the analysis of the necessity of the measure (art. 4.b).

⁸² United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). Refers to the balance between the potential harm caused by the use of force and the legitimate objective to be achieved.

⁸³ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), adopted in Peru in Legislative Decree 1186 012-2016-IN. See also: A/HRC/26/36 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (2014); UNODC-OHCHR Resource Book on the Use of Force and Firearms in Law Enforcement (2017).

⁸⁴ A/HRC/26/36 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (2014).

⁸⁵ CCPR/C/GC/36, Human Rights Committee, General Comment 36, para. 12; CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 88.

⁸⁶ With respect to the nine recommendations made to Peru in the framework of its fourth review under the Universal Periodic Review Process, the State responded that it is committed to “continue to promote all necessary actions to ensure the use of force in accordance with international human rights standards.” See A/HRC/53/8, 25 April 2023, recommendations 111.20, 111.21, 111.23, 111.34, 111.26, 111.27, 111.28, 111.29, 111.30, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/036/17/PDF/G2303617.pdf?OpenElement>.

⁸⁷ Legislative Decree No. 1186. 16 August 2015, available at: <https://busquedas.elperuano.pe/normaslegales/decreto-legislativo-que-regula-el-uso-de-la-fuerza-por-parte-decreto-legislativo-n-1186-1275103-2/>

⁸⁸ Ministry of the Interior, Supreme Decree N° 012-2016-IN, 17 July 2016, available at: <https://busquedas.elperuano.pe/download/url/aprueban-reglamento-del-decreto-legislativo-n-1186-decreto-decreto-supremo-n-012-2016-in-1409580-3>

⁸⁹ Other regulations include Legislative Decree No. 1267, Law of the National Police of Peru, 18 December 2016; Vice-Ministerial Resolution No. 033-2009-IN-0103.1, Procedures to ensure respect for the fundamental rights of persons (civilians and police) in the direction, organisation and execution of control, maintenance and restoration of public order operations; PNP General Command Resolution No. 418-2022-CG-PNPEMG, Administrative and operational guidelines applicable to police operations for the control, maintenance and restoration of public order.

progressive and differentiated manner, “in accordance with the principles of legality, necessity and proportionality.”⁹⁰

67. It is of concern that Law No. 31012 on “Police Protection”⁹¹ of 2020 contains provisions prohibiting pre-trial detention of police officers accused of acts in the use of their service weapons and repealing the proportionality criterion previously contained in Legislative Decree No. 1186. The Human Rights Committee observed that the implementation of this law could pose serious obstacles to combating impunity and ensuring accountability and access to justice.⁹²

68. Regarding the Armed Forces, the use of force is regulated by Legislative Decree No. 1095.⁹³ Other relevant regulations are the Manual of Operational Law of the Armed Forces;⁹⁴ the Joint Manual of Operational Standards of Conduct of the Armed Forces;⁹⁵ the Manual of Human Rights and International Humanitarian Law of the Armed Forces;⁹⁶ the Rules of Engagement of the Armed Forces of Peru;⁹⁷ and the Rules for the Use of Force.⁹⁸

69. Both the National Police⁹⁹ and the Peruvian Armed Forces¹⁰⁰ have received human rights training programs, to varying degrees. The police have developed “Guidelines for the formation, training, specialisation and improvement of the PNP”¹⁰¹ by the National School of Professional Police Training. OHCHR notes that all police contingents deployed in the context of crowd control should have access to theoretical and practical training on crowd control and use of force, especially at the regional levels.

⁹⁰ Ministry of the Interior, Ministerial Resolution No. 952-2018-IN, Manual on Human Rights Applied in Police Operations, available at: https://static.legis.pe/wp-content/uploads/2018/08/Manual-de-derechos-humanos-policia-nacional-Legis.pe_.pdf

⁹¹ Law No. 31012, Law on Police Protection, 28 March 2020, available at:

<https://busquedas.elperuano.pe/download/url/ley-de-proteccion-policial-ley-no-31012-1865203-1>.

⁹² CCPR/C/PER/CO/6, Human Rights Committee, General Comment 36, para. 26.

⁹³ Legislative Decree N° 1095, Legislative Decree that establishes rules for the employment and use of force by the Armed Forces in the national territory, 1 September 2010, available at:

[https://www2.congreso.gob.pe/sicr/cendocbib/con2_uibd.nsf/4E2FCC17050A1136052577910065602D/\\$FILE/DECR_LEGISLATIVO_PR_1095.pdf](https://www2.congreso.gob.pe/sicr/cendocbib/con2_uibd.nsf/4E2FCC17050A1136052577910065602D/$FILE/DECR_LEGISLATIVO_PR_1095.pdf). See also Supreme Decree No. 0003-202, Regulation of the Legislative Decree No. 1095, available at: <https://busquedas.elperuano.pe/normaslegales/reglamento-del-decreto-legislativo-n-1095-decreto-legisla-decreto-supremo-n-003-2020-de-1864943-1/>.

⁹⁴ Ministry of Defense, Ministerial Resolution No. 0067-2022-DE, 3 February 2022.

⁹⁵ Ministry of Defense, Ministerial Resolution No. 0065-2022-DE, 3 February 2022.

⁹⁶ Ministry of Defense, Ministerial Resolution No. 0066-2022-DE, 3 February 2022.

⁹⁷ Ministry of Defense, Ministerial Resolution No. 038-2022-DE, 16 June 2022.

⁹⁸ Ministry of Defense, Ministerial Resolution N° 013-2023-DE. Publication, 21 February 2023.

⁹⁹ The Government reported that, on an ongoing basis, it has carried out training and capacity-building activities in the area of human rights as applied to the police, conducting at least eight training courses on human rights, benefiting more than 1,000 officers in recent years. Government Report, para. 115, citing PNP, Oficio N° 2465-2023-COMASGEN-CO-PNP/DIRNOS-SEC attaching Report N° 006-COMASGEN-DIRNOS PNP/SEC, 21 July 2023, p. 3. On 24 August 2023, OHCHR participated in a human rights training workshop with 40 generals from the National Police from all over the country.

¹⁰⁰ The Ministry of Defence has the Centre for International Humanitarian and Human Rights Law, which has developed at least five academic programs on human rights in recent years. Government Report, para. 122, citing MINDEF, Legal Report N°00398-2023-MINDEF/SG-OGAJ, 15 March 2023, para. 2.35.

¹⁰¹ Ministry of the Interior, Ministerial Resolution No. 116-2019-IN, 18 January 2019, available at: <https://www.gob.pe/institucion/mininter/normas-legales/257738-116-2019-in>. In July 2023, Directive No. 014-2023-CG PNP/EMG Guidelines for capacity building of police personnel in the use of force oriented to continuous improvement with a human rights approach., was adopted. Government Report, para. 140, citing PNP, General Command Resolution No. 280-2023-CG PNP EMG, 29 July 2023.

Preparation, planning and organisation of police operations and actions in the context of protests

70. According to international standards, “the policing of an assembly should be planned and conducted with the objective of enabling the assembly to take place as intended, and with a view to minimising the potential for injury to any person and damage to property.”¹⁰² This should include generic contingency plans and training protocols for policing protests, with instructions and equipment for deployment,¹⁰³ clear command structures and protocols for documenting events.¹⁰⁴ OHCHR does not have access to information on the planning carried out by the security forces in the context of the protests from 7 December 2022 to 30 March 2023.¹⁰⁵

71. Since 7 December 2022, especially in the centre of Lima, OHCHR has registered acts by security forces to limit peaceful demonstrations *ex ante*, i.e., before acts of violence are recorded. These include measures, such as the establishment of checkpoints to register people entering Lima, the division of groups of demonstrators, the confinement of groups (“kettling”), crowd dispersal with the use of lethal or less lethal force, and the presence of military equipment such as tanks, helicopters and armoured vehicles at the demonstration.

72. Some interviewees identified the involvement of the Armed Forces as a factor that aggravated tensions with protesters. In Ayacucho, it was reported that the deployment of the Armed Forces on 15 December 2022 in the central square, under the state of emergency, provoked anger among protesters, contributing to their decision to enter the airport. Those interviewed reported that the large police/military deployment and the presence of military equipment may have added to an atmosphere of confrontation and intimidation, and aggravated tensions, thus increasing the risk of violence and use of force.

73. Before resorting to the use of force, every necessary precaution should be taken to avoid or at least minimise the risk of force being used and to reduce the severity of the harm that may be caused. To this end, security forces should seek to de-escalate situations that may turn violent, exhaust non-violent means, and give prior warning if the use of force is absolutely necessary.¹⁰⁶ In the cases documented by OHCHR, there is no evidence indicating that the security forces established clear lines of communication and dialogue with the organisers of the protests, before and during the protests, in order to promote acts of prevention and de-escalate tensions.

Use of lethal force and less lethal weapons

74. The cases documented by OHCHR indicate that law enforcement officials used force, including lethal force, in circumstances not permitted by international human rights law and standards. OHCHR considers that the use of lethal force and less lethal weapons by security forces in the context of the demonstrations could have resulted in violations of the rights to life and physical integrity. Thus, the deaths resulting from this use of force would constitute an arbitrary deprivation of life.

¹⁰² CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 76.

¹⁰³ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 76.

¹⁰⁴ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 77.

¹⁰⁵ The Government has developed Administrative and Operational Guidelines Applicable to Police Operations for the Control, Maintenance and Restoration of Public Order, Directive No. 015-2022-CG PNP/EMG, 13 October 2022. Government Report, para. 126, citing PNP, National Police General Command Resolution No. 418-2022-CG PNP/EMG, 13 October 2022.

¹⁰⁶ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 78.

75. OHCHR recorded 50 civilian deaths (2 women and 48 men) in the context of the protests between 7 December 2022 and 31 March 2023. OHCHR also documented 821 injured civilians (at least 98 women and 542 men).¹⁰⁷ Of the 50 people killed, 27 were under the age of 25, 7 of them under the age of 18. Of those injured, at least 28 were minors, 7 of whom were seriously injured. According to the information gathered, many victims were reportedly not involved in the protests.

76. The use of lethal weapons by security forces was recorded during protests in Apurímac, Ayacucho, Ica, Junín, La Libertad and Puno. According to arms experts consulted by OHCHR, this includes the use of rifles compatible with IMI (Israeli Military Industries) or IWI (Israeli Weapons Industries) GALIL rifles.

77. The civilians killed during the clashes with security forces were mainly from the southern regions of Peru. The numbers by region are as follows: 7 in Apurímac (5 in Andahuaylas, 1 in Chincheros, 1 in Aymaraes) (all men); 3 in Arequipa (1 in Caravelí and 2 in Arequipa) (all men); 10 in Ayacucho, Ayacucho (all men); 2 in Cuzco, Cusco (all men); 21 in Puno (2 in Carabaya, 18 in Juliaca, 1 in Ilave) (2 women and 19 men); 2 in Lima (two men);¹⁰⁸ 3 in Junín (Pichanaki) (all men); 2 in La Libertad (Virú) (all men). Of the cases of deceased persons documented in depth by OHCHR, 79% of their relatives self-identified as being of indigenous origin (Quechua or Aymara).

78. A high number of people were killed and injured during the demonstrations in three main moments: (1) on 11 and 12 December 2022 in Chincheros and Andahuaylas, Apurímac, where 7 people were killed and at least 45 were injured (where police was present); (2) on 15 December 2022 in Huamanga, Ayacucho, where 10 people were killed and at least 64 injured (where police and Armed Forces were present); and (3) on 9 January 2023 in Juliaca, Puno, where 17 people were killed and more than 100 injured (where police and Armed Forces were present).

79. In these cases, lethal force was used to protect public and private property, in particular buildings important to national security, such as airports. The use of potentially lethal force for law enforcement purposes is an extreme measure that should only be resorted to only when strictly necessary to protect life or prevent serious injury from an imminent threat.¹⁰⁹

80. Of the 50 civilians killed in the context of use of force by security forces, 42 were killed by firearm ammunition. As confirmed by autopsy reports, 47 of the 50 civilians killed were shot in the upper body (head, chest, back and abdomen).

81. OHCHR documented that, of the 50 civilians killed, at least 24 were reportedly not participating in the demonstrations.¹¹⁰ For example, in Ayacucho, on 15 December 2022, a 15-year-old boy was shot while crossing the street on his way home from work. The bullet hit him

¹⁰⁷ The Public Prosecutor's Office reported that it has registered a total of 1,287 people injured during protests between December 2022 and March 2023. It does not disaggregate the number by civilians and members of the security forces. Government Report, para. 143, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 2.

¹⁰⁸ One of them allegedly received blows during a protest in Lima on 14 March and then died in Puno from cerebral oedema on 31 March, according to an autopsy report dated 12 July 2023.

¹⁰⁹ See CCPR/C/GC/36, Human Rights Committee, General Comment 36, paras. 12; See also A/HRC/26/36, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (2014), para. 72.

¹¹⁰ This figure does not include those people killed in road blockades.

in the back and exited through his torso. In Junín, on 16 December 2022, at 2:30 a.m., a 17-year-old boy died from a gunshot wound during a confrontation between police and protesters on the Pichanaki Bridge, as part of the clearing of a roadblock. His parents said that he had gone out to bring water to those affected by tear gas. According to the autopsy certificate, the bullet entered through the back at the level of the thorax.

82. At least two of the deceased were providing medical assistance to injured persons. In Juliaca, on 9 January 2023, Marco Antonio Samillan Sanga, a 30-year-old medical student, left his home after being informed that people were injured in the area near the airport. He was shot as he was finishing assisting an injured person. The autopsy confirmed that he was hit by a bullet that entered through the kidney and exited through the chest.

83. OHCHR documented several cases in which the victims were located far away from the protests and security forces. For example, in Andahuaylas, on 12 December 2022, two 18-year-olds were fatally shot by firearms while on a lookout point, observing the protests from the top of a hill, at a distance of hundreds of meters away. Autopsies confirm deaths from gunshot wounds to the chest and head.

84. During the protests between December 2022 and March 2023, OHCHR also documented 108 civilians injured by gunfire. At least 65 of these injuries were to the upper parts of the body, including the face, jaw, chest, back and arms. In many cases, the projectiles struck vital organs of demonstrators or bystanders.

85. Among the cases verified by OHCHR, 42 of the injured persons suffer permanent physical sequelae. For example, among the cases verified in depth, 10 people were unable to walk or have severely reduced mobility; 2 suffered permanent visual impacts, including a minor who lost an eye; 3 have severe gastrointestinal impacts; 2 suffer total or partial destruction of the jaw; and at least 5 have pellet and bullet wounds lodged in critical areas of the body, with risk of death. One injured woman who was not participating in the demonstrations suffered a miscarriage shortly after being hit by two bullets.

86. OHCHR recorded the use of less lethal weapons to disperse demonstrations in Lima, Apurímac, Ayacucho, Arequipa, Cusco, Ica, Junín, La Libertad, Madre de Dios and Puno. In none of the cases recorded by OHCHR was the deployment reportedly carried out after a verbal warning to participants or an opportunity to disperse voluntarily, as required by international standards.¹¹¹

87. OHCHR also recalls that less lethal weapons should only be used subject to strict requirements of necessity and proportionality, in situations where other less harmful measures have proven or are clearly ineffective in addressing the threat. Law enforcement officials should not resort to less lethal weapons in situations of crowd control that can be addressed by less harmful means, especially in situations involving the exercise of the right to peaceful assembly.¹¹²

¹¹¹ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 87 (“Less-lethal weapons with wide-area effects, such as tear gas and water cannons, tend to have indiscriminate effects. When such weapons are used, all reasonable efforts should be made to limit risks, such as causing a stampede or harming bystanders. Such weapons should be used only as a measure of last resort, following a verbal warning, and with adequate opportunity given for assembly participants to disperse”).

¹¹² CCPR/C/GC/36, Human Rights Committee, General Comment 36, para. 14.

88. OHCHR documented the use of less-lethal weapons in a manner incompatible with international human rights standards,¹¹³ including allegations of firing tear gas bombs and pellets (both rubber and metallic) horizontally and at close range, causing severe, disabling and fatal injuries.

89. At least 5 of the 50 fatalities were killed by pellets, according to autopsy reports, and all of them by metal bullets (3 in Juliaca, 1 in Arequipa and 1 in Cusco). At least one victim was killed by a tear gas canister.¹¹⁴ Rosalino Flórez, a 22-year-old student from Cusco, died on 21 March 2023 allegedly as a result of wounds caused by a burst of 36 pellets that affected his vital organs, as shown in a video of the incident.¹¹⁵ At least 51 people were injured by pellets (both metal and rubber).¹¹⁶

90. The use of less lethal weapons was reported in residential areas, affecting people who were not participating in the protests, including women, children and the elderly. For example, in Puno, Ayacucho and Ica, security forces reportedly unduly used tear gas in residential areas and directly towards homes near protest sites, causing harm to the local population. OHCHR also documented that in Ayacucho and Juliaca, the Armed Forces reportedly launched projectiles containing chemical agents from helicopters, from which pinkish-coloured gases emanated.

91. Many interviewees attributed actions involving excessive use of force by security forces, especially in regions outside the capital, to deep-seated social and historical discrimination against Indigenous Peoples in the social, political and economic spheres of the country.

92. During the protests between 19 and 30 July, OHCHR documented an additional 64 civilians injured (at least 35 men and 24 women). Of these, at least 20 suffered contusions (13 women and 6 men), at least 14 were poisoned by tear gas (10 women, 3 men and 1 four-year-old child), and at least 12 were injured by rubber pellets. The Public Prosecutor's Office has registered 31 people injured during this period.

93. All of the aforementioned incidents are under investigation by the Special Team for cases involving victims during social protests (EFICAVIP) of the Public Prosecutor's Office, in the preliminary investigation phase (see section 2.9 below).

2.4. Deprivation of liberty as a deterrent to peaceful assembly

94. The right to liberty is affirmed in Article 9 of the ICCPR. The Peruvian Constitution states that “no one may be detained except by written and reasoned order of the judge or by the

¹¹³ According to OHCHR Guidance on Less Lethal Weapons in Law Enforcement, 2020, available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/LLW_Guidance.pdf.

¹¹⁴ Víctor Raúl Santisteban Yacsavilca died from the impact of a tear gas bomb in Lima on 28 January. Cristian Alex Rojas Vasquez also reportedly died from the impact of a tear gas bomb to the head on 14 December (wounded on 10 December), but the autopsy performed on him on 10 March 2023 was inconclusive.

¹¹⁵ See ATV Noticias, Rosalino Flórez, demonstrator injured from a gunshot wound in Cusco died on Tuesday 21, available at: https://www.youtube.com/watch?v=Oi__8oL3qV8

¹¹⁶ According to OHCHR Guide on Less Lethal Weapons in Law Enforcement, metallic pellets should not be used in crowd control. Multiple projectiles fired at the same time are inaccurate and, in general, their use cannot comply with the principles of necessity and proportionality. Metalc pellets, such as those fired from shotguns, should never be used, para. 7.5.6, available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/LLW_Guidance.pdf.

police authorities in case of flagrante delicto.” Detention shall not last longer than the time strictly necessary for the conduct of investigations and, in any case, the detainee must be brought before a judge within a maximum period of forty-eight hours.¹¹⁷

Arrests and detentions for “identity checks.”

95. OHCHR documented at least 988 cases of civilians detained in the context of protests between December 2022 and March 2023. The Public Prosecutor’s Office reported a total of 871 interventions during this period at the national level.¹¹⁸

96. According to international standards, “preventive detention of targeted individuals to keep them from participating in assemblies may constitute arbitrary deprivation of liberty, which is incompatible with the right of peaceful assembly.”¹¹⁹ Such detentions may only be used in the most exceptional cases, for no longer than absolutely necessary and only where the authorities have proof of the intention of the individuals involved to engage in or incite acts of violence during an assembly.¹²⁰

97. OHCHR noted that, in some cases, the arrests of protesters had a deterrent effect on participation in protests. For example, following the arrest of five young men from Cuyo Grande at the end of January 2023, four of whom have been in pre-trial detention for nine months, communities in Cusco stopped calling for mobilisations. The five young men are still in pre-trial detention under investigation for the alleged crime of rioting.¹²¹

98. OHCHR documented numerous cases of people peacefully exercising their right to protest who were detained under the pretext of “identity control” and subsequently taken to different police stations.¹²² According to the Protocol for Identity Control,¹²³ a regulation of the National Police of Peru, police officers can take people to the police station for identification and background checks for a maximum of four hours. In several of the cases recorded, detainees were not allowed to contact a lawyer during this period.

99. In some cases, the arrests were *en masse*. According to international standards, “indiscriminate mass arrests before, during or after an assembly are arbitrary and thus unlawful.”¹²⁴ For example, on 6 January 2023, while a peaceful demonstration was taking place at the University Park in Lima, 240 people, including 3 minors, were detained and taken to the Cotabambas police station, where they remained for two hours while an “identity check” was carried out. The following day, in the same place, an “identity check” was carried out on 28 people, 10 of whom were detained and taken to the Cotabambas police station for two and a

¹¹⁷ Constitution, art. 2, para. 24.f.

¹¹⁸ Government Report, para. 187, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 7.

¹¹⁹ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 82.

¹²⁰ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 82.

¹²¹ Criminal Code, art. 315. Government Report, para. 187, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 7.

¹²² See also, Ombudsperson’s Office, Legal figures of deprivation of liberty used by the police.

Nacional en el contexto de las protestas sociales y vulneración de derechos, 28 February 2023, available at: <https://www.defensoria.gob.pe/wp-content/uploads/2023/04/Informe-Especial-N-09-2023-DP-DMNPT.pdf>.

¹²³ See Police Identity Check Protocol, 2014, available at:

<https://www.pj.gob.pe/wps/wcm/connect/3c6a5d8040999d979d30dd1007ca24da/Protocolo+of+police+identity+checks.pdf?MOD=AJPERES&CACHEID=3c6a5d8040999d979d30dd1007ca24da#:~:text=Esta%20diligencia%20de%20comprobaciones%20consiste%20en%20inquirir%20acerca%20de%20un%20hecho%20punible>

¹²⁴ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 82.

half hours. During this operation, the Public Defender’s Office was present with 19 criminal public defenders to provide guidance and/or legal representation to the persons intervened.¹²⁵

100. Several incidents have been documented in the context of detentions, raising concerns regarding their compatibility with international human rights law. First, there have been reported arrests allegedly carried out by plainclothes police officers (“ternas” or “Escuadrón Verde”),¹²⁶ who, after arresting individuals, hand them over to uniformed police officers. Second, in almost all cases, it has been reported that the police officers who carried out the arrest did not explain the reasons/causes for the arrest.¹²⁷ Third, the alleged unnecessary and disproportionate use of force by police during some arrests has been documented, including beating, kicking, hair pulling, and forcing people to lie face down.

101. During deprivation of liberty, which in most cases lasted up to 48 hours, there have also been reports of a lack of adequate safeguards and conditions of detention, such as access to legal representation, communication with family members, access to interpreters and access to medication. In four documented cases (see section 2.5 below), detainees received treatment that may amount to torture or ill-treatment. Some individuals also reported being forced to sign documents indicating that they had been treated well during their detention, as was the case in six cases documented by OHCHR.

102. The Government informed OHCHR that it took measures to provide support to persons detained in the context of the protests. The Ministry of Culture, through the Office for Interpretation and Translation in Indigenous or Original Languages (“Central de Interpretación y Traducción en Lenguas Indígenas u Originarias”) provided interpretation services to detained Indigenous persons. On 8 February 2023, the Ministry of Women and Vulnerable Populations approved the Joint Action Protocol of the State for the articulation of services in contexts of detention, retention in police intervention to women and people in vulnerable conditions.¹²⁸

103. In addition, on 16 February 2023, the Ministry of Justice and Human Rights approved the Protocol for the attention of alleged situations of affectation of rights reported by civil society organisations in the context of social protests¹²⁹ and the Protocol for the Attention of Persons in a situation of special vulnerability intervened and/or detained in the context of social protests.¹³⁰ According to the Government, both were intended to prevent alleged human rights violations in the context of social protests.

The case of the Universidad Nacional Mayor de San Marcos

On 21 January 2023, at around 9:30 a.m., more than 300 police officers raided the Universidad Nacional Mayor de San Marcos (UNMSM) in Lima, where delegations of around 300 demonstrators from the regions of Apurimac, Huancavelica and Puno were staying overnight.

¹²⁵ Peru State Report, para. 178, citing MINJUSDH, DGDPAJ, Actions undertaken from 7 December 2022 to 30 January, V.6.

¹²⁶ See Supreme Decree No. 026-2017-IN, Regulation of Legislative Decree No. 1267, Peruvian Police Law, 15 October 2017, art. 230, available at: <https://elperuano.pe/normaselperuano/2017/10/15/1576324-1/1576324-1.htm>

¹²⁷ Article 9(2) of the International Covenant on Civil and Political Rights requires that anyone who is arrested shall be informed, at the time of arrest, of the reasons for their arrest and be promptly informed of any charges against him or her.

¹²⁸ Government Report, para. 177, citing MIMP. D.S. N° 002-2023-MIMP, 8 February 2023.

¹²⁹ Government Report, para. 177, citing MINJUSDH. R.M. N° 097-2023-JUS. 16 February 2023.

¹³⁰ Government Report, para. 177, citing MINJUSDH. R.M. N° 098-2023-JUS, 16 February 2023.

The police reported that the intervention at the university was carried out following a complaint filed by the UNMSM Court Representative against alleged perpetrators of crimes against property and aggravated trespassing, among others, following a theft incident on the campus the night before.¹³¹

Without prior warning, a police tank entered the university facilities by breaking Gate No. 3, while a helicopter flew over the area. The Government informed that the multipurpose vehicle was used “with the purpose of protecting the integrity of the intervening police personnel and guaranteeing the safety of the people to intervene against possible homemade explosives and attacks against blunt objects and even with firearms.”¹³²

The officers fired tear gas, while the people inside were resting, having breakfast or in the middle of their personal hygiene routines.¹³³ Male police officers entered women’s toilets and rooms, where some were dressing or bathing. More than a hundred people were forced to lie face down on the floor¹³⁴ while handcuffed, receiving blows to parts of their bodies, as well as insults and racially discriminatory phrases from the police officers.

In total, 194 people were arrested in flagrante delicto for the alleged crime of aggravated usurpation,¹³⁵ including 76 women, one minor, four students and one journalist, duly identified as press personnel. Subsequently, 102 people were transferred to the headquarters of the Criminal Investigation Directorate (DIRINCRI) and 91 to the headquarters of the Anti-Terrorism Directorate (DIRCOTE) of the National Police of Peru.

According to information received by the Government, all the persons questioned were informed of the reason for their arrest, and after a preliminary search, they were informed of their rights under the Criminal Procedure Code, art. 71.¹³⁶

According to information gathered, from the time of the intervention until 3 p.m., when 30 lawyers entered the detention centres, the 194 detainees did not have access to a lawyer, communication with family members or interpreters. OHCHR documented cases of three women who were forced to undress by female officers, allegedly as part of a medical evaluation. The women, who spoke Quechua and Aymara, said they felt humiliated by the incident.

¹³¹ Government Report, para. 179, citing PNP, REGPOL-LIMA, Report No. 009-2023-REGPOL-LIMA/SECRETARÍA, 23 March 2023, para. 1. It was also reported that the intervention was based on Law No. 30220, University Law, art. 10.3 (providing that the National Police and the Public Prosecutor’s Office may only enter the university campus by court order or at the request of the Rector).

¹³² Government Report, para. 179, citing PNP, REGPOL-LIMA Report No. 009-2023-REGPOL-LIMA/SECRETARÍA, 23 March 2023, para. 4.

¹³³ The Government reported that it treated vulnerable persons (pregnant mothers, older adults and children) differently. Government Report, para. 184, citing PNP, REGPOL-LIMA, Report No. 009-2023-REGPOL-LIMA/SECRETARÍA, 23 March 2023, para. 8c.

¹³⁴ The Manual on Human Rights as Applied to Police Functions states that police personnel may use three positions to make an arrest: a) standing, b) kneeling, and c) lying down. According to the information provided, the last position is “the one that represents the least risk or possibility of reaction from the offender, and at the same time the most advisable when there is more than one person involved, as occurred in the present case”. Government Report, para. 183, citing PNP, REGPOL-LIMA, Report No. 009-2023-REGPOL-LIMA/SECRETARÍA, 23 March 2023, para. 8b.

¹³⁵ Criminal Code, art. 202 and 204.2.

¹³⁶ Government Report, para. 181, citing PNP, REGPOL-LIMA, Report No. 009-2023-REGPOL-LIMA/SECRETARÍA, 23 March 2023, paras. 6 and 7.

The Government reported that the Public Defender's Office of the Ministry of Justice and Human Rights deployed a group of public defenders to the DIRINCRI and DIRCOTE facilities to provide guidance or legal representation to detainees.¹³⁷ The team included three Quechua-speaking public defenders. Upon contact with the detainees, legal representation was provided to four persons; the others reported that they had private defence of their choosing.¹³⁸

The Government also reported that it coordinated with the Public Defenders Office, the Public Prosecutor's Office, the Ministry of Women and Vulnerable Populations and the Ombudsperson's Office for the handover to a relative of a detained minor¹³⁹ and for the release of a woman who was seven months pregnant.¹⁴⁰ The Ministry of Culture participated in six interpretations and coordinated the entry of 10 volunteer translators into detention centres.¹⁴¹ The Ministry of Women and Vulnerable Populations provided care to the 49 women detained in the UNMSM, including psychosocial and legal accompaniment and the provision of water and toiletries.

OHCHR welcomes the decision of the Public Prosecutor's Office on 24 August 2023 to close the preparatory investigations for alleged crimes of aggravated usurpation against 192 people detained at the Universidad Nacional Mayor de San Marcos.¹⁴² According to the decision:

- There was no evidence of seizure of goods or objects of criminal interest, including firearms, bladed weapons, sticks or other blunt objects.
- There was no evidence of the existence of violence or threat directed against a specific or certain person.
- There was no objective evidence of the use of physical force or threats against security personnel or any property by the persons under investigation.
- There was no evidence that the persons under investigation caused damage to university property.

The decision concluded that “[The detainees] were in the university campus to be able to spend the night and eat, and they were not gathered in a disorderly and violent manner.”

The Public Prosecutor's Office, through the Special Team for cases involving victims during social protests (EFICAVIP) is investigating possible crimes committed by security forces

¹³⁷ Government Report, para. 185, citing MINJUSDH. DGDPAJ, Memorandum No. 1762-2023-JUS/DGDPAJ, 8 March 2023, Annex: Memo. Public Defence in the interventions at the premises of the Confederación de Comunidades Campesinas and San Marcos, p. 1.

¹³⁸ Government Report, para. 188, citing MINJUSDH, DGDPAJ, Memorandum No. 1762-2023-JUS/DGDPAJ, 8 March 2023, Annex: Memo. Public Defence in the interventions at the premises of the Confederación de Comunidades Campesinas and San Marcos, p. 2.

¹³⁹ Government Report, para. 189, citing MINJUSDH. DGDPAJ, Memorandum No. 1762-2023-JUS/DGDPAJ, 8 March 2023, Annex: Memo. Public Defence in the interventions at the premises of the Confederación de Comunidades Campesinas and San Marcos, p. 2.

¹⁴⁰ Government Report, para. 190, citing MINJUSDH. DGDPAJ, Memorandum No. 1762-2023-JUS/DGDPAJ, 8 March 2023, Annex: Memo. Public Defence in the interventions at the premises of the Confederación de Comunidades Campesinas and San Marcos, p. 2.

¹⁴¹ Government Report, para. 193, citing MINCUL, DGCI, Report No. 000009-2023-DGCI-JCM/MC, 16 August 2023, para. 2.109.

¹⁴² MPFN, Case No. 506014504-2023-224-0 of 24 August 2023.

during the events and has declared the case as “complex.” The expert evaluation is being carried out in accordance with the Istanbul Protocol.¹⁴³

OHCHR has also received information on internal investigations and disciplinary proceedings initiated against police officers in connection with the raid at this university, including one against the officer in relation to the alleged mistreatment of an indigenous woman during the arrests.

Criminal charges against protesters and organisations

104. OHCHR has documented criminal complaints against demonstrators and other persons with an active and visible role in protests that could have a deterrent effect on the exercise of the rights to freedom of association, expression and other related rights, as well as be incompatible with international human rights law. In cases of acts of violence committed in the context of demonstrations, the State must individualise the participation of each of the persons accused in the events, establishing the circumstances of time, place and manner.¹⁴⁴

105. According to the Public Prosecutor’s Office,¹⁴⁵ as of August 2023, there were 36 persons under investigation for alleged crimes in the context of the protests. This includes alleged crimes of rioting¹⁴⁶ (37%); simple damage¹⁴⁷ and its aggravated forms¹⁴⁸ (21.3%); usurpation¹⁴⁹ (20.1%); disturbance of the normal functioning of public services¹⁵⁰ (10%); violence and resistance to authority¹⁵¹ (4.3%); theft¹⁵² (4.2%); receiving an asset of criminal origin¹⁵³ (1.3%); extortion¹⁵⁴ (.9%); impediment of transportation functions¹⁵⁵ (.4%); manufacture, supply or possession of dangerous materials¹⁵⁶ (.2%); kidnapping¹⁵⁷ (.2%); affiliation to terrorist organisations (.1%), terrorism crimes and related crimes.¹⁵⁸ These investigations are at the stage of preliminary proceedings.¹⁵⁹

106. OHCHR had access to the court files of 10 cases involving 241 persons under investigation for crimes in the context of protests. This includes investigations for the alleged

¹⁴³ Government Report, para. 193, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 28 August 2023, p. 7.

¹⁴⁴ Inter-American Commission on Human Rights, Protest and Human Rights. Standards on the rights involved in social protest and the obligations to guide response of the State, CIDH/RELE/INF.22/19, 2019. paras. 83, 214.

¹⁴⁵ Government Report, para. 195, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 8.

¹⁴⁶ Criminal Code, art. 315.

¹⁴⁷ Criminal Code, art. 205.

¹⁴⁸ Criminal Code art. 206.

¹⁴⁹ Criminal Code, art. 202 and 204.2.

¹⁵⁰ Criminal Code art. 449.

¹⁵¹ Criminal Code, art. 365.

¹⁵² Criminal Code, art. 185.

¹⁵³ Criminal Code, art. 194.

¹⁵⁴ Criminal Code, art. 200.

¹⁵⁵ Criminal Code, art. 285.

¹⁵⁶ Criminal Code, art. 279.

¹⁵⁷ Criminal Code, art. 152.

¹⁵⁸ Decree Law No. 25475.

¹⁵⁹ They include the following incidents, inter alia: the burning of the institutional premises of the Provincial Municipality of San Roman Juliaca; the seizure of the Inca Manco Capac Airport in Juliaca, Puno; the attacks against the premises of the General Command of the PNP; the burning and looting of the Plaza Vea Supermarket in the city of Puno; the attacks, looting and burning of the premises of the Public Prosecutor’s Office, Judicial Power and the Police Stations of Macusani, Chucuito and Ilave, in Puno.

crimes of rioting¹⁶⁰; illegal housebreaking;¹⁶¹ aggravated robbery;¹⁶² crimes against freedom¹⁶³ in the form of kidnapping;¹⁶⁴ aggravated homicide;¹⁶⁵ crimes against humanity in the form of torture;¹⁶⁶ and crimes against the powers of the State and constitutional order in the form of conspiracy to rebellion¹⁶⁷ and sedition.¹⁶⁸

107. OHCHR reviewed court files relating to criminal complaints filed against protesters for their alleged role in organising the protests or for being part of an organising or convening entity. In at least two cases, protest organisers were charged with being part of a criminal organisation¹⁶⁹ for their alleged role in coordinating or providing logistical support to the demonstrations. The Human Rights Committee has noted that isolated acts of violence committed by some participants should not be attributed to the organisers as such.¹⁷⁰

108. In Andahuaylas, Apurimac, 20 of the 23 people hospitalised on 9,10 and 11 December 2022 in the sub-regional hospital for injuries caused during the demonstrations were notified of criminal investigations against them. OHCHR received information on the arbitrary nature of the criminal charges filed against them, which appear to have as a common denominator the investigation of injured demonstrators. A large number of injured persons interviewed by OHCHR said that they had not gone to health centres for fear of being charged and/or detained.

109. In the Ica region, between 9 December 2023 and 30 January 2023, OHCHR documented 59 people detained in the context of mobilisations. Of these, at least 13 remain in pretrial detention in the Cristo Rey de Cachiche prison. On 9 January 2023, despite the fact that the blockade of the South Pan-American Highway km 263 had already been cleared, a helicopter, at least 15 police vehicles, 4 armoured tanks and dozens of mounted and motorised police were deployed in the area. More than a hundred police officers searched the houses in surrounding neighbourhoods, causing fear among the population. Two people were arrested on charges of disturbances.

110. Also in Ica, on 25 January, the National Police arrived with approximately 600 troops and detained 14 people. The Government informed OHCHR that 12 people are under investigation and/or prosecuted for allegedly committing crimes against public tranquillity in the context of the protests in Ica on 25 January.¹⁷¹ On 30 January 2023, a young agro-export worker was arrested and physically assaulted for filming security forces. He was remanded in preventive detention for nine months on charges of rioting, obstructing the operation of public services, violence against authority and resisting authority.

¹⁶⁰ Criminal Code, art. 348.

¹⁶¹ Criminal Code, art. 160.

¹⁶² Criminal Code, art. 189.

¹⁶³ Criminal Code, Title IV, Chapter I.

¹⁶⁴ Criminal Code, art. 152.

¹⁶⁵ Criminal Code, art. 108.

¹⁶⁶ Criminal Code, art. 321.

¹⁶⁷ Criminal Code, art. 346.

¹⁶⁸ Criminal Code, art. 347.

¹⁶⁹ Criminal Code, art. 317.

¹⁷⁰ See A/HRC/22/28, OHCHR, Effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protests, 21 January 2013, available at:<https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.28.pdf>.

¹⁷¹ Government Report, para. 196, citing PJ. DDHH. Oficio N°32-2023-DDHH-PJ.

111. OHCHR recalls that, as noted by the Human Rights Committee, the obligation to respect and ensure peaceful assemblies imposes negative and positive duties on States before, during and after assemblies. The negative duty entail that there should be no unwarranted interference with peaceful assemblies. No one should be harassed or suffer other reprisals as a consequence of their presence at or affiliation with a peaceful assembly.¹⁷²

Terrorism-related offenses and criminal investigations

112. Since the beginning of the protests, OHCHR documented the application of anti-terrorism legislation (Law 25475) in relation to acts that occurred in the context of the protests, including against leaders and other demonstrators with a public profile. OHCHR documented 39 individuals who participated in the demonstrations and subsequently had investigations opened against them for acts of terrorism. Some of these have been shelved at the time of the report's publication. OHCHR recalls that criminalising mere acts of organising or participating in a peaceful assembly under counterterrorism laws is contrary to international human rights standards.¹⁷³

113. For example, on 17 December 2022, the Anti-Terrorism Directorate of the National Police of Peru (DIRCOTE) raided the headquarters of political parties and civil society organisations, including the New Peru party, the Peruvian Socialist Party and the Peruvian Peasant Confederation (CCP). Twenty-six people were arrested by DIRCOTE, mostly Indigenous people who had travelled to Lima to participate in the protests. After about 11 hours, the detainees (all men) were released with investigations for alleged terrorism offenses.

114. OHCHR welcomes the decision of 15 August 2023 by the Public Prosecutor's Office to close the investigation against the 26 persons detained.¹⁷⁴ Among other things, the Prosecutor's Office determined that there was no evidence of criminal interest that would allow for the criminal participation of those involved in the alleged commission of a crime.¹⁷⁵ The Prosecutor's Office concluded that the 26 detainees were not linked to terrorist organisations and were not "provoking, creating or maintaining a state of anxiety, alarm or fear in the population or sector of the population" in accordance with the definition of the crime of terrorism.¹⁷⁶

115. In some cases, OHCHR recorded acts possibly aimed at intimidating those detained. For example, following the arrest of seven people in Ayacucho on 12 January 2023, they were taken to the BIM barracks Los Cabitos N° 51, a military facility where human rights violations were committed during the period 1980-2000 and where mass graves and incineration ovens have been documented in the past.¹⁷⁷ They were detained for several hours and then transferred by plane to Lima, allegedly without prior notice to their families or access to a lawyer.

116. Of concern is the communiqué 6 February 2023 from the Ministry of the Interior, in which it announced the creation of a channel to receive citizen complaints related to alleged

¹⁷² CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 66.

¹⁷³ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 68.

¹⁷⁴ Government Report, para. 198, citing MPFN, First Office of the Supraprovincial Corporate Criminal Prosecutor's Office Specialising in Terrorist Crimes and Related Offences, Prosecutor's Disposition N° 05, 16 August 2023.

¹⁷⁵ Case No. 506012800-2022-191-0, para. 4.15.

¹⁷⁶ Case No. 506012800-2022-191-0, para. 4.15.

¹⁷⁷ According to the Final Report of the Truth and Reconciliation Commission, crimes of arbitrary detention, torture, forced disappearance and extrajudicial execution were committed in the BIM Los Cabitos No. 51 barracks during the period of violence 1980-2000.

incidents of incitement to terrorism.¹⁷⁸ The communiqué indicated that complainants should attach evidence to support the accusation, such as photos, videos or screenshots. The communiqué recalled that the crime of incitement to terrorism on social networks is punishable by imprisonment of between 8 and 15 years (Criminal Code, art. 316-A).¹⁷⁹

117. The Special Rapporteur on the promotion and protection of human rights while countering terrorism has expressed concern at the infringements on the exercise of the right to freedom of assembly and association in the name of counter-terrorism.¹⁸⁰ He noted that vague definitions of terrorism contribute to limiting civic space, for example, through the routine misuse of these laws to label civil society actors, including human rights defenders, as terrorists and to prosecute them for terrorism-related offences, in order to hinder their human rights work.¹⁸¹

118. OHCHR echoes the recent recommendation of the Human Rights Committee that Peru review the definition of terrorism contained in Law 25475, in order to strictly respect the principle of legality and avoid abuses or arbitrariness with implications on the rights to life, liberty and personal security.¹⁸²

Access to legal assistance and judicial guarantees

119. According to information from the Ministry of Justice and Human Rights, the Public Defence Service, through its district offices in Apurímac, Arequipa, Ayacucho, Cusco, Huancavelica, Ica, La Libertad, Lima, Madre de Dios, Puno and Selva Central, offered free legal assistance (legal orientation and/or sponsorship) in 432 cases related to the protests.¹⁸³ The Victims Defence Service provided support (legal orientation and sponsorship) to 110 victims throughout the country.¹⁸⁴ The Public Defence Service has also intervened in various hospitals.¹⁸⁵

120. OHCHR documented a series of actions that reportedly unduly limited the work of lawyers defending demonstrators. Lawyers interviewed by OHCHR reported that they were

¹⁷⁸ Communiqué Ministry of the Interior No. 04 - 2023, Apology of terrorism on social networks can be denounced to Mininter, 6 February 2023, available at: <https://www.gob.pe/institucion/mininter/noticias/697066-comunicado-mininter-n-04-2023>

¹⁷⁹ In Peru, the crime of terrorism is defined in Law Decree No. 25475 as “Anyone who causes, creates or maintains a state of anxiety, alarm or fear in the population or in a sector of it, performs acts against life, body, health, freedom and personal safety or against property, against the security of public buildings, roads or means of communication or transmission, motor facilities or any other good or service, using weapons, explosive materials or devices or any other means capable of causing havoc or serious disturbance of the public tranquility, means or means of communication or transmission, motor facilities or any other property or service, using weapons, explosive materials or devices or any other means capable of causing havoc or serious disturbance of the public tranquility or affecting international relations or the security of society and the State.”(art. 2). 2). 2). Other articles of the Decree-Law define the crimes associated with terrorism, including the crimes of collaboration with terrorism (art. 4), affiliation to terrorist organisations (art. 5), apology of terrorism (art. 7).

¹⁸⁰ A/61/267, para. 22.

¹⁸¹ A/76/273, para. 22.

¹⁸² CCPR/C/PER/CO/6, Human Rights Committee, Concluding observations on the sixth periodic report of Peru, 24 March 2023, para. 15.

¹⁸³ Government Report, para. 201, citing MINJUSDH. DGDPAJ, Email of 20 April 2023, Annex: Supplementary Information, para. 1.

¹⁸⁴ Government Report, para. 202, citing MINJUSDH. DGDPAJ, Email of 20 April 2023, Annex: Supplementary Information, para. 1.

¹⁸⁵ Government Report, para. 204, citing MINJUSDH. DGDPAJ, Email of 20 April 2023, Annex: Supplementary Information, para. 2.

prevented from accessing police stations where people were detained in the context of demonstrations and, on occasion, refused information on the status of the detainee. In two cases documented by OHCHR, police reportedly denied informing lawyers on the whereabouts of detainees for periods ranging from 2 to 12 hours, which could have constituted an enforced disappearance.¹⁸⁶

121. In all interviews with lawyers, they reported having suffered stigmatisation and even threats from the police. For example, a lawyer from Andahuaylas recounted how the police used to call them “defenders of the vandals.”

122. Lawyers and members of human rights organisations accompanying the victims also reported surveillance of their homes or workplaces by police officers or suspicious vehicles, calls from unknown numbers and the publication of their personal data on social networks. A lawyer in Lima reported that after her work defending detainees in Lima, police agents arrived at the address indicated on her identity card. A lawyer in Cusco observed the presence of police officers in front of her home when she was leaving or returning from hearings of detainees in the context of demonstrations.

2.5. Torture and other cruel, inhuman or degrading treatment or punishment

123. The prohibition of torture is absolute in international law. Peru is a party to international treaties that prohibit it.¹⁸⁷ Article 2 of the Peruvian Constitution states that “No one should be a victim of moral, psychological or physical violence, nor subjected to torture or inhuman or humiliating treatment.”¹⁸⁸

124. Under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, torture is defined as acts that cause severe pain or suffering, whether physical or mental, are inflicted intentionally and involve a public official, directly or indirectly.¹⁸⁹ To constitute torture, the acts must be committed for a specific purpose, such as extracting a confession, obtaining information, punishment, intimidation, humiliation, coercion or any reason based on discrimination.¹⁹⁰

125. During its interviews, OHCHR documented 4 cases involving more than 50 people detained in the context of protests, who were allegedly subjected to ill-treatment contrary to international human rights law, some of them possibly amounting to torture. The events occurred in Apurímac, Puno and Cusco, all in the context of arrests of protesters.

126. In some cases, interviewees reported being forced to sign statements incriminating themselves or others. OHCHR recalls that the UN Convention against Torture provides that no

¹⁸⁶ See article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance. See also CED/C/10/D/1/2013.

¹⁸⁷ Peru has ratified the International Covenant on Civil and Political Rights (see art. 7), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988, as well as the Inter-American Convention to Prevent and Punish Torture in 1986. See also Universal Declaration of Human Rights, art. 5.

¹⁸⁸ Political Constitution of Peru, art. 2, no. 24, letter h).

¹⁸⁹ Convention against Torture, art. 1.

¹⁹⁰ Convention against Torture, art. 1; See also A/HRC/13/39/Add.5, paras. 35 and 58-71.

statement obtained as a result of torture may be invoked as evidence in any proceedings, including during a state of emergency,¹⁹¹ except against a person accused of torture as evidence that the statement was made.¹⁹²

Documented cases

<p>12 and 13 December 2022, in Andahuaylas, Apurimac.</p>	<p>In Andahuaylas, Apurímac, seven men were detained in different places and at different times between 12 and 13 December in the context of demonstrations. Four of the seven detainees were interviewed and their testimonies coincided in that their arrests were allegedly carried out by the National Police of Peru, without an arrest warrant and without the existence of flagrancy related to the facts for which they are being investigated.</p> <p>The persons interviewed reported having suffered physical and verbal violence at the hands of State agents after their arrest, acts that allegedly had a serious impact on their health. The acts reportedly included death threats against them or their families, blows with blunt objects to various parts of the body and with the butts of firearms, blows to the genitals, handcuffing, blindfolded slaps and stomping on fingers.</p> <p>The individuals were also allegedly forced to remain kneeling for long periods of time without rest, thrown to the ground and stepped on, and were allegedly beaten on the soles of their feet. These acts took place both in the official vehicles in which they were taken to the police station and in the police station itself. The three certificates from the Institute of Forensic Medicine of the Public Prosecutor’s Office reviewed by OHCHR confirmed bruises¹⁹³ on various parts of the body and, in two of the cases, certified that these injuries were caused by blunt objects.</p> <p>One interviewee stated that he had been induced to implicate another person in the commission of a crime, under threat of violence. He said that the police officer threatened him by saying: “If you don't want to testify like this, we will kill you.” He was allegedly forced to take the police to the other person’s house. After the person was captured, he was also allegedly subjected to violence by the police. He reported, “I was taken to the police station, where I was locked up and beaten by five police officers, who were carrying sticks with which they hit me in various parts of my body.” One police officer reportedly shouted at him that he was going to “disappear and kill him.” At the time of writing, he is still being held on charges of aggravated homicide.</p> <p>The Government informed that these facts have been brought to the attention of the common prosecutor’s offices of the Apurimac Prosecutor’s District.¹⁹⁴</p>
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¹⁹¹ CCPR/C/GC/21, Human Rights Committee, General Comment 32 (2007), paras. 6, 41, 60, available at: <https://digitallibrary.un.org/record/606075?ln=en>.

¹⁹² Convention against Torture, art. 15.

¹⁹³ The certificate refers to “violaceous ecchymosis, ecchymotic stigmata and swellings.”

¹⁹⁴ Government Report, para. 206, citing MPFN. Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 23 August 2023, p. 10.

<p>9 January 2023 in Juliaca, Puno</p>	<p>On 9 January in Juliaca, Puno, G.D.A. was on his way to a soccer match when a police officer allegedly shot him in the right leg as he was leaving the airport. According to his allegations, as a result of the impact, he was unable to walk and was caught by the police officers, arrested and taken inside the airport facilities. There he was allegedly beaten, insulted and threatened with death.</p> <p>A police officer allegedly pointed his gun at him. He was allegedly forced to sign a report that he was not allowed to read, and he reported being forced to touch handmade weapons and to be photographed in possession of them. In addition, he was allegedly deprived of his liberty for several hours in the custody of police officers without receiving adequate medical assistance, which resulted in his unconsciousness and injuries to his leg.</p>
<p>31 January 2023 in Cusco, Cusco</p>	<p>On 31 January in Cusco, five men from the community of Cuyo Grande, in the province of Calca, who were participating in the demonstrations, were reportedly detained by the National Police of Peru. All five agreed that their arrests were carried out in a violent manner, with beatings, without an arrest warrant and in flagrante delicto.</p> <p>The persons interviewed coincided in reporting that, inside the Cusco Police Station, they had suffered acts of physical and psychological violence by male police officers, including death threats, beatings on various parts of the body, simulated executions with firearms and threats of rape inside the prison, in order to obtain their signatures and fingerprints on documents whose contents they did not know. The persons declared to have after-effects of the beatings, with severe neck and stomach pains.</p> <p>All of them are being investigated for crimes of disturbing the public order and attacking the physical integrity of persons. At the time of publication, four were still in custody.</p>
<p>9 February 2023 in Izcahuaca, Apurimac</p>	<p>On 9 February, in the region of the seven turns of Izcahuaca, Apurimac, more than 40 people, including 7 women, were traveling in buses to Huacabamba, Andahuayas, after participating in demonstrations.</p> <p>On their way back, they were intercepted by several police vehicles with armed personnel, who reportedly caught up with them and blocked their route. According to the information received, the police shot at the trucks, slashing their tires. Denilson Huaraca Vilchez, age 22, died of a gunshot wound to the thorax, and three other people were seriously wounded. One of the injured was left paraplegic and another is still recovering from a bullet wound near the heart and a punctured lung.</p> <p>According to testimonies collected, the people were forced off the buses and reportedly spent more than three hours on the road in sub-zero temperatures, while they were interrogated by the police and beaten and</p>

	<p>trampled. One of those shot was reportedly forced by the police to drive one of the buses while he was bleeding to death. The group was reportedly held at the Abancay police station for 72 hours before being released.</p> <p>The Public Prosecutor’s Office reported that the case is under investigation by the Special Team for cases involving victims during social protests (EFICAVIP) in the preliminary investigation phase.¹⁹⁵</p>
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2.6. Threats and stigmatisation

Threats and intimidation against protesters

127. OHCHR interviewed several individuals who reported that security forces reportedly harassed and intimidated protesters, including using surveillance, threats and other forms of coercion, as a means of deterring them or limiting their participation in demonstrations. These acts allegedly took place during the protests, at the headquarters of organisations participating in the demonstrations and at the shelters where protesters were staying overnight. OHCHR notes that these actions could have a chilling effect on freedom of assembly and expression and deter people from exercising their right to protest peacefully.

128. In some cases, the acts appeared to be aimed at retaliating against demonstrators for their participation in the protests. In Andahuaylas, relatives of those killed (all men under the age of 20) during the protests reported harassment, intimidation and threats by police officers during the funerals. Witnesses indicated that members of the security forces reportedly threatened them with phrases such as “walk calmly, this time we can kill 4 or 5.” People interviewed in Puno and Ayacucho also reported intimidation during the victims’ funerals.

Stigmatisation of protesters

129. Since the beginning of the protests, there have been incidents of public statements describing the protesters in stigmatising terms, as a way of delegitimising their demands, a practice that negatively affects the possibilities of finding a way out of the current crisis. Stigmatising discourses proliferated on the Internet, through the media and social networks, and through speeches by political actors, authorities and some sectors of the population. OHCHR is concerned that stigmatising speeches have been made at the highest political level.

130. Stigmatising terms generalised protesters as violent, vandals or linked to illegal activities such as illegal mining, drug trafficking or the infiltration of foreign actors. The dissemination of racist messages was also documented, with derogatory comments based on the ethnicity, social status or regional origin of the protesters, especially when they were peasants and/or Indigenous people. Around 65% of the people interviewed reported having suffered racist insults or harassment.

131. In interviews conducted in Apurímac, Ayacucho and Cusco, OHCHR documented cases of injured persons, and/or their family members, who received discriminatory treatment by staff at public hospitals and health centres for allegedly having participated in the demonstrations. A young man who was seriously injured on 15 December in Ayacucho told

¹⁹⁵ Government Report, para. 208, citing MPFN. Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 23 August 2023, p. 10.

OHCHR that several hospital officials reportedly humiliated him and made comments such as “why did you go to the demonstrations” and “others in better condition than you have come, they have been operated on, but they have died.” In another case in Cusco, medical professionals told one of the injured that he would not be able to walk again and therefore should not have gone to the demonstrations and that, “because of his last name, he was probably a terrorist.”

132. Indigenous women reportedly faced interconnected, intersectional and aggravated forms of discrimination and stigmatisation. A woman from Huancavelica reported that, while being detained by police officers on 21 January during the police operation at the Universidad Nacional Mayor de San Marcos, the police officers shouted derogatory terms alluding to her Indigenous origin, indicating that she should never have come to Lima and that she would never leave Lima (“chola de mierda, a chola de mierda, a qué mierda vienes a joder aquí en Lima, qué quedarse en tus sierras de mierda, de aquí nunca vas a salir”).

133. In Andahuaylas, the mother of a seriously injured minor described how hospital health personnel treated her with derogatory terms alluding to her regional peasant origin (“chola campesina”, “serrana”). She was told that she could not stay with her daughter because she “stank” and contaminated the hospital environment.

134. On the eve of the Great National March that took place on 19 July in Lima, Aymara women denounced police ill-treatment along their journey from Puno to Lima, where they were allegedly stopped on at least four occasions by police blockades. They reported that, once in Lima, they were insulted and beaten by police officers during the demonstrations, suffering visible bruises and hematomas, and reported being followed and intimidated, even with the use of drones. They reported receiving threats, and one woman had to leave her community due to threats from local police to make her “disappear.”

135. The Government reported that the Ministry of Culture, through the Directorate of Cultural Diversity and Elimination of Discrimination, attended between 7 December 2022 and 24 March 2023, 33 reports of alleged cases of ethno-racial discrimination reported by citizens.¹⁹⁶ On 20 January 2023, the Ministry of Culture issued a communiqué rejecting any act or mention that leads to an ethno-racial comparison between Peruvian men and women and invoking to build bridges of dialogue instead of generating divisions.¹⁹⁷ The Ministry of Culture has also formulated the strategy “Peru without Racism” to contribute to reduce discriminatory practices.¹⁹⁸

The practice of “terruqueo”

136. Since 7 December 2022, OHCHR has documented an increase in the practice of “terruqueo” in the country, including by state agents. In the Peruvian context, “terruqueo” refers to singling out a person, group of persons, organisations or institutions for belonging to or supporting so-called “terrorist organisations.”

¹⁹⁶ Government Report, para. 209, citing MINCUL, DEDR, Report No. 00009-2023-DEDR-BTC/MC, 24 March 2023, para. 3.17.

¹⁹⁷ Government Report, para. 210, citing MINCUL, DEDR, Report No. 00009-2023-DEDR-BTC/MC, 24 March 2023, para. 3.18.

¹⁹⁸ Government Report, para. 211, citing MINCUL, DGCI, Report No. 000009-2023-DGCI-JCM/MC, 16 August 2023, para. 2.138.

137. Human rights organisations from Apurímac, Ayacucho, Cusco, Lima and Puno agreed that the “terruqueo” has been generalised and trivialised, targeting the mobilised population, the victims, the human rights organisations and the lawyers who accompany them, and even the Ombudsperson’s Office.

138. In interviews with persons deprived of liberty in Apurímac, Ayacucho, Ica, Lima, Cusco and Puno, all reported having been insulted and labelled as “terrorists” during their detention by police officers. Sixty-four per cent of the people interviewed by OHCHR reported psychological impacts due to stigmatisation and “terruqueo.” A leader from Apurímac said, “we are not terrorists, that hurts us in our hearts and souls, a terrorist for demanding his rights.” The mother of a young man shot in Andahuaylas mentioned how the whole family “is psychologically very affected [...] the radios scare you, they defame the victims, they call us terrorists, delinquents.”

139. On 17 January, an organisation called “La Resistencia”¹⁹⁹ attacked several human rights organisations, carrying out harassment and stigmatisation campaigns against the organisations Coordinadora Nacional de Derechos Humanos and Asociación Pro Derechos Humanos, as well as the Instituto de Defensa Legal, accusing them of being “pro-terrorist” organisations. In all three cases, OHCHR received allegations that the police did not intervene, despite requests from the organisations’ staff. The Public Prosecutor’s Office informed that it has an open investigation against the group “La Resistencia.”²⁰⁰

2.7. Access to health care in the context of the demonstrations

Access to emergency medical services

140. The Human Rights Committee has recalled that, in the context of assemblies, when law enforcement officials are prepared to use force or violence is considered likely to occur, the authorities should also ensure that adequate medical services are available.²⁰¹

141. The Ministry of Health reported a total of 1,398 people with damages to health and life during the protests.²⁰² It reported that 539 health personnel, brigades, technical and other teams, 51 ambulances, 4,244 kilos of medicines and 2,320 medical supplies were mobilised during the period of the protests.²⁰³ The Ministry of Health also reported 14 attentions during the protests in Lima and 15 medivac transfers between 13 December 2022 and 12 January 2023.

142. OHCHR recognises the preparedness of the Regional Health Directorate in Ayacucho, which, in response to the mobilisations of 15 December 2022, proceeded to place ambulances in the vicinity of the airport. All medical personnel, including those who were on leave, returned to work at the hospital. However, in Andahuaylas, Ica and Juliaca, the authorities did not always guarantee prompt access to health services in the areas where the security forces intervened, which hindered the timely care of injured people.

¹⁹⁹ See Ojo Público, La Resistencia, Military in Retirement, Extremist Speeches and Political Support, available at: <https://ojo-publico.com/tag/la-resistencia>.

²⁰⁰ Conducted by the Fourth Supra-Provincial Prosecutor's Office Specialising in Organised Crime, Organised Crime Division (Case 15-2022). Government Report, para. 212, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 12.

²⁰¹ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 88.

²⁰² Government Report, para. 223, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023, p. 14.

²⁰³ Government Report, para. 223, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023, p. 15.

143. In most of the cases documented by OHCHR, the injured persons were attended to in the first moments by bystanders or by volunteer health brigades. In many cases they were transported in vehicles unsuitable for transporting serious patients, such as linear motorcycles. OHCHR also received information of pregnant women in Ica who had to leave the protest areas in private vehicles to receive medical attention for emergencies related to their pregnancies, as ambulances did not reach Barrio Chino. OHCHR also interviewed people in Lima who reported that ambulances were not arriving in downtown Lima to attend to urgent cases, allegedly due to security risks for their staff.

Hospital treatment

144. OHCHR received information on discriminatory practices affecting access to health and the integrity of individuals in hospital establishments in Andahuaylas, Ayacucho, Ica and Juliaca. Victims reported discriminatory treatment and stigmatising comments by health personnel (see above). OHCHR was also informed of the presence of police and military in hospitals, including in the Intensive Care Unit, to interrogate people with serious injuries and/or make them sign documents. This reportedly generated fear of prosecution among the injured, and some of them chose not to go to the hospital, which may have resulted in the underreporting of the number of injured persons.

145. OHCHR documented several cases in Apurímac, Ayacucho, Cusco and Puno, where people could not be operated on in the regional hospital closest to the scene due to a lack of medical specialists. In some cases, timely transfer to a more specialised hospital was not ensured, with serious consequences for the life and physical and psychological integrity of the affected persons. In other cases, the injured persons reported malpractice and lack of medical attention, which led to a serious deterioration of their physical and mental health. OHCHR documented cases in which hospitals failed to send medical documents after the transfer of injured patients.

146. In one documented case, on 11 December in Andahuaylas, a 15-year-old girl was walking with her family near the protest zone when she was hit by pellets in the eye area. She could not be treated at the hospital in Andahuaylas because there was no ophthalmologist. Her mother was criticised for “exposing her daughter in the protest.” A.B.C. was transferred to the Hospital del Niño in Lima, and was discharged after the operation, but as her health worsened, she was admitted to the Hospital 2 de Mayo, where she subsequently lost her eye. As a result, the girl has suffered serious mental health issues.

Impact on mental health and access to mental health services

147. Victims and family members interviewed reported repercussions on their psychological and physical health, affecting their life plans. No specific mental health services have yet been provided for victims and their family members, and all interviewees lacked information on how to access existing public mental health services. Most of the injured people were men, who left their mothers, sisters and partners in charge of their daily care. Often the situation prevented them from continuing their work activities or finding sources of income to survive and pay for medical expenses. This had an impact on their mental health.

148. One woman interviewed by OHCHR stated that she was very affected psychologically by the situation of her son, who was shot in the pelvis and immobilised, and that she was worried about being able to maintain her home with her four children. The hospital recommended that her son undergo rehabilitation therapy to avoid irreversible damage. However, she did not have the physical or financial means to transport her son to the hospital.

The hospital told her that she should provide rehabilitation therapy for her son, despite her lack of training in this area.

149. According to regional health authorities, there was a significant increase in mental health needs following months of social protests, especially in regions that have suffered episodes of violence. On 11 April, the head of mental health strategies at the Regional Health Directorate of Puno stated that they had recorded a 20% increase in anxiety among all age groups since the beginning of the protests in the region.²⁰⁴

150. In an interview with OHCHR, the head of a Regional Health Directorate emphasised that the health sector was seeking to prioritise mental health care for people directly affected by the protest, as well as for the general population, with a gender and intercultural approach, through the allocation of adequate resources.

2.8. Journalists and communicators in the coverage of the social protests

151. The role of journalists and media professionals involved in monitoring or reporting on assemblies is important to the full enjoyment of the right to peaceful assembly. Journalists and media professionals should not be prohibited or unduly restricted in the exercise of their functions, including in monitoring the actions of law enforcement officials.²⁰⁵ They should not suffer retaliation or other harassment, and their equipment should not be confiscated or damaged.²⁰⁶ Law enforcement officials policing assemblies must protect journalists.²⁰⁷

152. Between December 2022 and March 2023, OHCHR verified 66 cases of journalists and media professionals, including 17 women, who suffered physical violence during news coverage of protests, both by law enforcement officers and demonstrators. The highest concentration of aggressions (47) occurred in the city of Lima.

153. In at least 40 cases, journalists were assaulted by demonstrators or members of the crowd. In at least 20 cases, law enforcement officials were identified as allegedly responsible for the attacks. In some cases, their equipment was damaged by both protesters and law enforcement officials, including when recording arrests or cases of possible excessive use of force in the context of the protests. Photojournalists and cameramen have been particularly affected, as they are the most exposed when approaching clashes between protesters and security forces to carry out their work.

154. OHCHR documented 17 cases of journalists who suffered injuries, three of them from being hit or shot with tear gas or pellets. On 28 January 2023, at least six journalists covering the demonstration were injured. Two Wayka journalists were victims of physical violence by police officers while filming the arrest of a demonstrator. Another journalist was hit by a rubber bullet near the eye while filming the clashes, while another was detained while filming live.

155. In at least three cases, journalists received death threats for carrying out their work. In Juliaca (Puno), Aldaír Mejía, an EFE photojournalist, was reportedly hit by a pellet in the right leg, causing a bone fracture, according to the first medical report. He also reportedly received

²⁰⁴ Radio Onda Azul, 11 April 2023, available at: <https://radioondaazul.com/durante-las-protestas-sociales-se-incremento-en-un-20-los-casos-de-ansiedad-en-la-region-de-puno/>

²⁰⁵ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 30.

²⁰⁶ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 30.

²⁰⁷ CCPR/C/GC/37, Human Rights Committee, General Comment 37, para. 30.

a death threat from a police officer while documenting the arrest of a demonstrator. This case is under investigation by the Special Team for cases involving victims during social protests (EFICAVIP) of the Public Prosecutor's Office.²⁰⁸

156. In Lima, journalist Alex Febrero received multiple threats via text messages, including photographs and information about family members and confidential information, such as his place of residence, for regularly covering the protests.

157. In Puerto Maldonado, Madre de Dios, a journalist was threatened after publishing articles and reports showing alleged illegal mining interests behind the blockades in that region. On 27 January, he was assaulted and threatened while doing a live broadcast for LatinaTV and received death threats by text message. He had to flee his home and his hometown after receiving threats from a group of people who reportedly intended to invade his home to attack him.

158. The Public Prosecutor's Office reported having registered a total of 11 affected journalists (5 women and 6 men). This includes one case of serious injuries, two cases of minor injuries and eight cases of abuse of authority and injuries.²⁰⁹ The cases are in the preliminary investigation stage by the Special Team for cases involving victims during social protests (EFICAVIP).²¹⁰

159. During the month of December 2022, five media outlets suffered attacks against their premises. On 12 December, in Lima, the headquarters of Panamericana Televisión and América TV were attacked with stones by demonstrators who destroyed the doors and windows of the premises. On 13 December, in Arequipa, groups of people caused serious damage to the headquarters of the América TV, Canal 8 and Radio Ley repeater in Majes, Arequipa, and to the headquarters of Televisión Cusqueña CTC and Radio San Miguel in Cusco.

160. One journalist and two communicators were reportedly detained despite being duly identified as press personnel (vest and credentials). For example, Paty Condori, a journalist from a local media outlet in Juliaca, was detained on 21 January for four hours during the raid on the Universidad Nacional Mayor de San Marcos. The journalist was also being prosecuted by the Public Prosecutor's Office for aggravated robbery, aggravated trespassing and crimes against property, but in a positive step, the investigation against her was shelved on 24 August 2023.²¹¹ The Special Team for cases involving victims during social protests (EFICAVIP) of the Public Prosecutor's Office is investigating possible violations committed against Paty Condori.²¹²

161. In February 2023, the Ministry of Justice and Human Rights approved a Protocol for the Orientation and Legal Assistance to Journalists and Social Communicators by the Public Defender's Office.²¹³

²⁰⁸ Government Report, para. 237, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 13.

²⁰⁹ Government Report, para. 233, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 13.

²¹⁰ Government Report, para. 234, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 13.

²¹¹ MPFN, Case No. 506014504-2023-224-0 of 24 August 2023.

²¹² Government Report, paras. 235 and 236, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 13.

²¹³ Government Report, para. 232, citing MINJUSDH, R.M. No. 102-2023-JUS, 22 February 2023.

162. On 28 February 2023, the Ministry of the Interior ordered the publication of the draft “Inter-institutional Protocol for the coordination and assistance to journalists and social communicators in the context of public disorder.”²¹⁴ The protocol was distributed by the Ministry of the Interior for consultation by journalists and the general public. The protocol was questioned by multiple actors, among them the Peruvian Press Council and independent journalists consulted by OHCHR, who alleged that interfered with journalistic independence and constituted prior censorship. Among other things, the protocol suggested that journalists remain in “appropriate” places to do their work during violent scenarios when covering demonstrations.

163. During the protests in July 2023, OHCHR recorded 18 journalists (10 men, 6 women and 2 unknown) victims of physical or verbal aggression by law enforcement officers and unknown persons. Of these, 7 were persons injured by pellets and 2 were injured by blows with sticks. According to the Government, the Public Prosecutor’s Office registered five journalists injured during the July protests.²¹⁵ On 19 July, a journalist and her team were attacked by a mob while covering the growing concentration of people in Plaza San Martín. Later that same day, a freelance journalist identified as press was seriously injured by pellet shots to the face and arm while covering the march from University Park to Congress.

164. It is positive the establishment of an Intersectoral Mechanism for the protection of human rights defenders, coordinated by the Ministry of Justice and Human Rights, which has under its mandate the coordination of protection measures for journalists.²¹⁶ In addition, the Public Prosecutor’s Office approved in 2022 a “Protocol for Prosecutorial Action for the Prevention and Investigation of Crimes against Human Rights Defenders.”²¹⁷

2.9. Accountability and access to justice

165. The State has the obligation to investigate - promptly, effectively, thoroughly, independently, impartially and transparently, with full respect for due process - all alleged violations of human rights, in particular the right to life, security and freedom from torture and other forms of cruel, inhuman or degrading treatment or punishment.²¹⁸ The investigation of violations of the right to life should be initiated ex officio when appropriate.²¹⁹

166. Investigations and prosecutions of potentially unlawful deprivations of life should be conducted in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death. As the Human Rights Committee

²¹⁴ Ministerial Resolution No. 0277-2023-IN, available at: <https://www.gob.pe/institucion/mininter/normas-legales/3957194-0277-2023-in>

²¹⁵ Government Report, para. 238, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 14.

²¹⁶ Government Report, para. 228, citing MINJSUDH, D.S. No. 004-2021-JUS, 22 April 2021. See also Directorial Resolution No. 054-2021-IN-VOI-DGIN approving the “Protocol of attention for the procedure of granting personal guarantees to human rights defenders.”

²¹⁷ Government Report, para. 229, citing MPFN, Resolution 439-2022-MP-FN, 28 March 2022.

²¹⁸ Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), OHCHR, Geneva, 2017, p. 4 para. c.; See Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition), Office of the High Commissioner for Human Rights.

²¹⁹ CCPR/C/GC/36, Human Rights Committee, General Comment 36, para. 28.

has stated, investigations should explore, among other things, the legal responsibility of superiors for violations of the right to life committed by their subordinates.²²⁰

167. In accordance with international standards, the transparency of the investigation²²¹ and access to information²²² must be guaranteed, including through the participation, in the broadest sense, of the victims and the associations that represent them in the different phases of the investigation, as well as the participation of their legal representatives.²²³

168. Persons whose rights have been violated are entitled to full and effective reparation.²²⁴ The relatives of victims of arbitrary deprivation of life have the right to equal and effective access to justice; to adequate, effective and prompt reparation;²²⁵ to recognition of their status before the law; and to access to information about violations and relevant accountability mechanisms.²²⁶

Criminal investigations by the Public Prosecutor's Office

169. Initially, the investigations of the cases of deaths and injuries that occurred during the protests between 7 December 2022 and 30 March 2023 were under the responsibility of different prosecutors' offices, including the Provincial Prosecutor's Offices, the Prosecutor's Offices Specialised in Organised Crime²²⁷ and the Supraprovincial Criminal Prosecutor's Offices Specialised in Human Rights and Interculturality. Subsequently, the investigations of the "high impact cases" were transferred to the Supraprovincial Criminal Prosecutor's Offices Specialised in Human Rights and Interculturality (Ayacucho, Apurímac, Puno).

170. On 3 April 2023, the Prosecutor General announced the creation of a Special Team for Cases with Victims during Social Protests (EFICAVIP), with a fortified team of 12 prosecutors and 6 assistants dedicated to exclusively investigate deaths and injuries in protests between December 2022 and March 2023.²²⁸ The resolution foresees that the special team of prosecutors

²²⁰ CCPR/C/GC/36, Human Rights Committee, General Comment 36, para. 27.

²²¹ Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), OHCHR, Geneva, 2017, para. 32.

²²² Communication No. 1085/2002, Bousroual v. Algeria, Human Rights Committee, 15 March 2006, para. 11.

²²³ An immediate family member of the victim "must participate in the proceedings to the extent necessary to safeguard his or her legitimate interests." Special Rapporteur on extrajudicial, summary or arbitrary executions, interim report (A/65/321), 23 August 2010.

²²⁴ Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, Principle 4; Art. 2(3), ICCPR; Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016), OHCHR, Geneva, 2017, p. 4 para. 10. Human Rights Committee, General Comment No. 31, para. 15.

²²⁵ Reparation includes restitution, compensation, rehabilitation, guarantees of non-repetition and satisfaction. See, for example, CCPR/C/GC/36, Human Rights Committee, General Comment 36, para. 19; United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation (E/CN.4/1998/43), paras. 68-75; Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/22/45), 28 January 2013, paras. 46-68.

²²⁶ Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016), OHCHR, Geneva, 2017, p. 4, para. 10.

²²⁷ On 15 December, the Public Prosecutor's Office published Resolution N°2673-2022-MP-FN, which will allow the Specialised Prosecutor's Offices for Organised Crime to "carry out immediate interventions and urgent proceedings for crimes committed in the context of protests." According to information provided by the Public Prosecutor's Office, the assignment was because this prosecutor's office has presence in all regions of the country.

²²⁸ Public Prosecutor's Office, Resolution No. 790-2023-MP-FN, dated 31 March 2023, published 3 April 2023, available at: <https://actualidadpenal.pe/norma/resolucion-de-la-fiscalia-de-la-nacion-790-2023-mp-fn/68718738-9b86-46cb-a8ee-3b2eed51884e>.

will have a specialised team for the protection of victims.²²⁹ On 26 May,²³⁰ 16 June,²³¹ 30 June²³² and 21 July,²³³ additional prosecutors were added to the team, bringing the total number of prosecutors on the task force to 36 prosecutors. The team also has 23 prosecutorial assistants, 12 administrative assistants and 9 psychologists.

171. OHCHR has received information on the opening of 60 prosecutorial files covering all cases of persons killed, as well as persons injured in protests, which have been consolidated into 45 case files at the time of publication. The EFICAVIP has carried out 2126 proceedings in relation to the criminal investigations, which includes gathering of testimonial evidence, inspections, expert opinions, recreations, exhibitions and seizures, among other measures.²³⁴

172. The EFICAVIP has national jurisdiction, so the prosecutors travel to the locations where the events occurred, which includes as at the time of publication Apurímac, Arequipa, Ayacucho, Cusco, Junín, La Libertad, Puno, and Ucayali.²³⁵ In the proceedings in which the victims have participated, the Public Prosecutor's Office reports that the District Victim and Witness Assistance and Protection Units have participated to provide psychological, social and legal support.²³⁶

173. According to the Public Prosecutor's Office, these proceedings have allowed the construction of the chronology of the facts and the collection of testimonial statements and audiovisual and documentary material. With this, it has been achieved "in certain cases, [that] the authors or participants of the facts under investigation have been identified."²³⁷ The Public Prosecutor's Office reports that it is conducting the relevant investigations of all senior officials involved for the alleged crimes of genocide, aggravated homicide and serious injuries committed during the demonstrations between December 2022 and January 2023 in the regions of Apurímac, Arequipa, Ayacucho, La Libertad, Junín and Puno.²³⁸ As of the date of publication of this report, none of the alleged perpetrators have been arrested.

174. The Public Prosecutor's Office reports that the investigations have incorporated the expert services of specialists from the Office of Forensic Experts and the Institute of Legal Medicine and Forensic Sciences in the specialties of ballistics, forensic digital analysis and crime scene analysis.²³⁹

175. In response to a request received by the Public Prosecutor's Office, OHCHR has regularly provided human rights training to the special investigation team. As of the date of

²²⁹ Public Prosecutor's Office, Resolution No. 790-2023-MP-FN, 3 April 2023, art. 3.

²³⁰ Resolution 1228-2023-MP-FN of 26 May 2023 (1 prosecutor added).

²³¹ Resolution 1445-2023-MP-FN of 16 June 2023 (1 prosecutor added).

²³² Resolution 1607-2023-MP-FN of 20 June 2023 (1 prosecutor added).

²³³ Resolution 1787-2023-MP-FN of 21 July 2023 (24 prosecutors added and 1 deleted).

²³⁴ Government Report, para. 242, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 9.

²³⁵ Government Report, para. 244, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 9.

²³⁶ Government Report, para. 245, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 9.

²³⁷ Government Report, para. 243, MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 9.

²³⁸ Government Report, para. 248, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 10.

²³⁹ Government Report, para. 246, citing MPFN, Report No. 000249-2023-MP-FN-CFSN-FPS-DHI, 24 August 2023, p. 10.

publication, it has provided 18 training sessions on topics related to criminal investigation in complex cases involving human rights violations, with the participation of international and national experts in the field.

176. OHCHR received information about threats made by security forces in Ayacucho and Juliaca against injured persons and their families, reportedly to pressure them not to report the events. In Ayacucho, for example, the mother of an injured minor was allegedly intimidated: “we will disappear your son if you denounce.”

177. It is positive that on 4 June 2023, the Public Prosecutor’s Office received a budget increase for 2023 of more than 99 million soles (approximately US\$24 million) for the creation and strengthening of human rights and intercultural prosecutors’ offices in regions throughout the country.²⁴⁰ This has allowed for the creation of 29 new prosecutor’s offices and a total of 216 permanent and temporary prosecutor positions.²⁴¹

Other measures taken for accountability

178. On 12 January 2023, Congress approved the creation of a parliamentary investigation commission in charge of determining responsibilities for the deaths and serious injuries in the context of the protests that have occurred since 7 December 2022. On 3 April, the Board of Spokespersons of Congress agreed that the commission will be composed of 9 members from 8 political parties, for a period of 90 calendar days. At the time of writing, the proposal has yet to be approved by the plenary and the commission has not been constituted.

179. With regard to administrative or disciplinary actions taken within the National Police of Peru, OHCHR has received information on at least 20 ongoing internal disciplinary investigations linked to deaths or injuries of protesters during the demonstrations in Lima, Cusco, Junín, Ayacucho, Apurímac, La Libertad, Arequipa and Puno since 7 December 2022. On 19 March, the government removed the generals in charge in Puno and Apurimac from their posts and reassigned both to new duties in Lima.²⁴² According to the Law Regulating the Disciplinary Regime of the National Police of Peru, the police must act in accordance with the Constitution and the law.²⁴³ Infractions are classified according to their seriousness as minor, serious and very serious²⁴⁴ and sanctions include written reprimand, suspension, disciplinary dismissal or retirement.²⁴⁵

180. With respect to the Armed Forces, OHCHR has information that the Department of Investigations of the General Inspectorate of the Armed Forces has initiated an internal investigation related to the events of 15 December 2022 in Ayacucho.²⁴⁶

²⁴⁰ Supreme Decree that authorises the Transfer of Items in the Public Sector Budget for Fiscal Year 2023 in favour of the Public Prosecutor’s Office, Supreme Decree N° 109-2023-ef.

²⁴¹ Resolution No. 045-2023-MP-FN-JFS, 3 July 2023.

²⁴² La República, Government removes PNP generals from their posts, investigates two for death of 28 protesters, 19 March 2023, available at: <https://larepublica.pe/politica/gobierno/2023/03/19/dina-boluarte-gobierno-remueve-de-sus-cargos-a-generales-pnp-investigados-por-muerte-de-28-manifestantes-protestas-556757>.

²⁴³ Law No. 307104, Law Regulating the Disciplinary Regime of the National Police of Peru (2018), available at: <https://busquedas.elperuano.pe/normaslegales/ley-que-regula-el-regimen-disciplinario-de-la-policia-nacion-ley-n-30714-1602597-3/>

²⁴⁴ Law that Regulates the Disciplinary Regime of the National Police of Peru, art. 28.

²⁴⁵ Law that Regulates the Disciplinary Regime of the National Police of Peru, art. 30.

²⁴⁶ Note No. 7-1-M-N/73, 21 April 2023.

181. While welcoming the disciplinary measures, OHCHR recalls that the obligation to provide an effective remedy to victims of the alleged violations highlighted in this report, under Article 2(3) of the ICCPR, normally requires a criminal investigation, which should lead to criminal prosecution.²⁴⁷

182. All authorities have a duty to cooperate fully with judicial authorities in the context of criminal investigations related to possible human rights violations. OHCHR highlights the State's obligation to provide judicial authorities with access to operational plans and other internal documents of the security forces relevant to the investigation of alleged human rights violations.²⁴⁸

2.10. Prevention and victim support

Victim support

183. The creation of a Multisectoral Commission to support victims,²⁴⁹ coordinated by the Ministry of Justice and Human Rights, is an important step to adopt and implement provisional measures to provide economic support to victims.²⁵⁰

184. The Multisectoral Commission had the mandate to “follow up on the actions and measures related to physical and mental health care, accompaniment and social support to the bereaved of the deceased and those who suffered serious injuries in the framework of the mobilisations carried out.”²⁵¹ OHCHR participated in the Multisectoral Commission as an observer. In total, the Multisectoral Commission held 20 sessions.²⁵² Its mandate ended in July 2023.²⁵³

185. The Multisectoral Commission provided financial support to the bereaved of 63 people who died from direct and indirect causes of the protests (111 people in total)²⁵⁴ and 155

²⁴⁷ CCPR/C/21/Rev.1/Add.13, Human Rights Committee, General Comment 31, paras. 15 and 18; CCPR/C/GC/36, Human Rights Committee, General Comment 36, para. 27.

²⁴⁸ Updated set of principles for the protection and promotion of human rights through the fight against impunity. Report of Diane Orentlicher, independent expert in charge of updating the set of principles for combating impunity. E/CN.4/2005/102/Add.1, 8 February 2005, para. 17.

²⁴⁹ Full name: Temporary Multisectoral Commission to follow up on actions and measures to assist the bereaved of the deceased, as well as those who suffered serious injuries in the demonstrations that took place between 8 and 21 December 2022, available at: <https://busquedas.elperuano.pe/normaslegales/resolucion-suprema-que-crea-la-comision-multisectorial-de-na-resolucion-suprema-n-264-2022-jus-2139699-2/>

²⁵⁰ CCPR/C/GC/36, Human Rights Committee, General Comment 36, para. 19.

²⁵¹ Representatives of the Ministry of Justice and Human Rights, the Presidency of the Council of Ministries, the Ministry of Health, the Ministry of Women and Vulnerable Populations, the Ministry of Development and Social Inclusion, the Ministry of Education, the Ministry of Agrarian Development and Irrigation, and Comprehensive Health Insurance participated in the Multisectoral Commission. The Ombudsperson's Office participated as an observer. The Interreligious Council of Peru also participated as an observer.

²⁵² Government Report, para. 254, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023, p. 5.

²⁵³ Since its creation, the mandate of the Multisectoral Commission was extended twice by Supreme Resolution of the Ministry of Justice. The first amendment, Supreme Resolution No. 027-2023-JUS, was approved on 25 January 2023 and extended the term of the Multisectoral Commission from 30 to 90 days from the date of its creation, 4 January 2023. On 3 May 2023, through Supreme Resolution No. 092-2023-JUS, the mandate of the Commission was extended for 90 more days. The Ministry of Housing, Construction and Sanitation and the Ministry of Culture were also integrated into the Multisectoral Commission.

²⁵⁴ 49 people died as a direct result of the protests, 7 people died as an indirect result of the protests (traffic accident or complications in their salute due to road blockades), 1 police officer died and 6 members of the army died. Government Report, para. 257, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

seriously injured people.²⁵⁵ This represents an important step in providing immediate support to victims. The total amount disbursed was 7,025,000 soles (US\$1,899,024).²⁵⁶

186. Within the framework of the Multisectoral Commission, the following actions were also carried out:

- The National Comprehensive Family Welfare Program (INABIF) provided physical and psychosocial health support services and humanitarian aid to the injured and their families, as well as to the families of the deceased.²⁵⁷
- The Ministry of Women and Vulnerable Populations attended 117 cases involving women, children, adolescents and elderly people in the context of the protests between December 2022 and March 2023.²⁵⁸ Economic assistance was also provided to 7 orphaned children and adolescents from Puno.²⁵⁹
- The Ministry of Education has included and assigned additional points for the National Cooperation Management Scholarship (Beca Peru), Call 2023 and 2024, to the beneficiary population of the actions of the Multisectoral Commission.²⁶⁰
- The Ministry of Development and Social Inclusion assessed victims and their families to benefit from a variety of social programs, including the National Program Cuna Más, the National Program of Direct Support to the Poorest (JUNTOS), the Development Cooperation Fund (FONCODES), the National Program of Solidarity Assistance Pension 65 and the National Program for the delivery of non-contributory pension to severely disabled people living in poverty (CONTIGO).²⁶¹
- The Ministry of Agrarian Development and Irrigation identified 18 deceased and 19 injured people registered in the Register of Agrarian Producers, to whom it has been providing services, for example, through the Fertiabono program.²⁶²
- The Seguro Integral de Salud has provided accompaniment and follow-up of the state of health of seriously injured persons, as well as the bereaved of deceased persons affiliated with the insurance.²⁶³

187. It is important to extend the mandate of the Multisectoral Commission to continue to support victims and their families. These measures should be complementary to reparations provided as a result of judicial proceedings and measures against alleged perpetrators in accordance with international law.²⁶⁴

²⁵⁵ The Multisectoral Commission considered five criteria to determine whether a victim would benefit from support: 1) injured who remained in the Intensive Care Unit; 2) injured who remained hospitalised for more than 10 days; 3) injured who required major surgery; 4) injured who have acquired a permanent disability as a result of the injuries; 5) other cases to be determined and approved by the Commission. Subsequently, the criterion of support was added “due to the type of injury suffered or the severity of the injury, they will have sequelae that will limit their normal performance in their daily or work activities.” Government Report, para. 255, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

²⁵⁶ Government Report, para. 259, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

²⁵⁷ Government Report, para. 260, citing MIMP, Report No. D000036-2023-MIMP-DVMPV-ANM, 16 August 2023.

²⁵⁸ Government Report, para. 261, citing MIMP, Report No. D000036-2023-MIMP-DVMPV-ANM, 16 August 2023.

²⁵⁹ Government Report, para. 261, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

²⁶⁰ Government Report, para. 262, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

²⁶¹ Government Report, para. 263, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

²⁶² Government Report, para. 264, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

²⁶³ Government Report, para. 265, citing MINJUSDH, Report No. 26-2023-CR-ST, 16 August 2023.

²⁶⁴ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. 60/147 Resolution adopted by the General Assembly on 16 December 2005, para. 15.

188. With respect to structural issues related to discrimination, it is positive that the Ministry of Justice and Human Rights is in the process of drafting the National Multisectoral Human Rights Policy (PNMDH), which covers the years up to 2030, with a focus on achieving coordinated action by the different State entities to reduce structural discrimination and inequality in the exercise of human rights. The Ministry of Justice has made progress with regional roundtables of national scope for the development of public policy.²⁶⁵

Independence of electoral and judicial institutions

189. OHCHR is concerned about developments that could negatively impact the independence of the country's electoral and judicial bodies, key institutions for the separation of powers and the functioning of democracy in the country.

190. It is a matter of deep concern that the electoral bodies in charge of organising and certifying elections, the National Electoral Board (JNE) and the National Office of Electoral Procedures (Oficina Nacional de Procesos Electorales - ONPE), have faced repeated attempts by Congress to interfere with their composition²⁶⁶ provided for in the Constitution.²⁶⁷ Since late February, Congress has introduced six separate bills to amend the Constitution to allow the incumbent heads of election agencies to be “constitutionally impeached” by Congress for alleged constitutional violations²⁶⁸ (under Articles 99 and 100 of the Constitution), raising concerns about possible interference with their independence.²⁶⁹

191. In addition, the incumbent presidents of electoral bodies have been the target of numerous personal attacks. According to information gathered by OHCHR, since the 2021 general elections, the head of the National Board of Elections,²⁷⁰ has been the victim of 18 cases of attacks and harassment, including 14 protests in front of his home, some of which were carried out by the group “La Resistencia”, as well as death threats.²⁷¹ The head of the ONPE

²⁶⁵ Ministry of Justice and Human Rights, Elaboration of the National Multisectoral Human Rights Policy, 1 September 2022, available at: <https://www.gob.pe/institucion/minjus/noticias/646115-minjusdh-lidera-avances-en-el-proceso-de-diseno-y-formulacion-de-la-politica-nacional-multisectorial-de-derechos-humanos>.

²⁶⁶ (1) Bill No. 04111/2022-CR, 31 January 2023; (2) Bill No. 03961/2022-CR, 11 January 2023, Title: Constitutional Reform Law granting transparency and neutrality to the National Jury of Elections; (3) Bill No. 03952/2022-CR, 10 January 2023; (4) Bill No. 03889/2022-CR, 4 January 2023.

²⁶⁷ Constitution of 1993, Chapter XIII.

²⁶⁸ (1) Bill No. 04495/2022-CR, 15 March 2023; (2) Bill No. 04477/2022-CR, 14 March 2023; (3) Bill No. 04435/2022-CR, 9 March 2023; (4) Bill No. 04430/2022-CR, 9 March 2023; (5) Bill No. 04347/2022-CR, 1 March 2023; (6) Bill No. 04333/2022-CR, 28 February 2023. These follow a Constitutional Court decision urging that the top representatives of the three electoral bodies -JNE, ONPE and Reniec- be subject to constitutional complaints and politically sanctioned by Congress, Case No. 00003-2022-PCC/TC, 23 February 2023, available at: <https://www.tc.gob.pe/institucional/notas-de-prensa/tribunal-constitucional-resolvio-el-conflicto-de-competencias-interpuesto-por-el-congreso-de-la-republica-contra-el-poder-judicial/>.

²⁶⁹ See Jurado Nacional de Elecciones, JNE considers unfeasible proposals to include in impeachment proceedings the heads of the Electoral System. 10 May 2023, available at: <https://portal.jne.gob.pe/portal/Pagina/Nota/14047>

²⁷⁰ In July 2021, the Inter-American Commission on Human Rights granted precautionary measures in favor of Jorge Luis Salas Arenas and his family. Resolution 56/2021, Precautionary Measure No. 607-21, 25 July 2021. In compliance with this measure, the Government informs that meetings have been held with the Public Prosecutor's Office and the National Police to grant the State security service to the beneficiaries of the precautionary measure.

²⁷¹ See CCPR/CGC/36, Human Rights Committee, General Comment No. 36, paras. 20 and 53. Article 6 also reinforces States parties' obligations under the Covenant and the Optional Protocol to protect individuals against reprisals for promoting and seeking to protect and realise human rights, including through cooperation or

has also received numerous attacks on social networks and in front of his home from a disinformation campaign he initiated during the 2021 general elections.²⁷²

192. Also of concern with respect to the independence of the judiciary are the three bills that have been introduced to modify the election process for members of the National Board of Justice, which appoints career judges and prosecutors, among other functions.²⁷³ Individual members of the National Board of Justice have also been the subject of four constitutional impeachments, between May and August 2023, which would allow Congress to suspend them from their public functions for periods of up to 10 years.²⁷⁴

193. On 7 September 2023, the Congress of the Republic approved a motion requesting its Justice and Human Rights Commission to open a summary investigation against the members of the National Board of Justice for “serious cause” under Article 157 of the Constitution, which could result in the removal of all its members.

194. On 21 June 2023, the Congress of the Republic disqualified the former Attorney General from exercising public functions for five years, based on alleged constitutional violations, for “omission, denial or delay of functional acts related to corruption investigations” against the former President of the Republic, Pedro Castillo.²⁷⁵ The former Attorney General has also received death threats.

III. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

195. The State applied restrictions on the right to peaceful assembly, including through states of emergency, the establishment of identity checks, the detention of protesters, and the use of lethal and less-lethal force to disperse protesters. Most of the protests that took place in Peru between December 2022 and July 2023 were peaceful, although some protesters and others engaged in acts of violence. Acts of violence, in the context of Article 21 of the International Covenant on Civil and Political Rights,²⁷⁶ are not protected by the right to peaceful assembly under international human rights standards.

196. In the documented cases, law enforcement officials used force, including lethal force with firearms, outside the circumstances that would be permitted under international human rights law, which would amount to arbitrary deprivation of life. This includes cases where

communication with the Committee. States parties should take the necessary measures to respond to death threats and provide adequate protection for human rights defenders, including the creation and maintenance of a safe and enabling environment for the defence of human rights.

²⁷² ONPE, Oficio N° 001484-2023-SG/ONPE, 21 August 2023.

²⁷³ Proyecto de Ley N° 05001/2022-CR, de 16 de mayo de 2023; Proyecto de Ley N° PL 04890/2022-CR, de 4 de mayo de 2023; Proyecto de Ley N° 03894/2022-CR, de 4 de enero de 2023.

²⁷⁴ 11 May 2023, 24 May 2023, 9 July 2023, and 13 July 2023, under the 1993 Constitution, arts. 99 and 100, which regulates the constitutional impeachment process. See also Inter-American Commission on Human Rights, Peru: IACHR expresses concern over constitutional accusations against justice operators and calls for respect for due process guarantees, 21 June 2023, available at: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2023/129.asp>

²⁷⁵ Resolución Legislativa del Congreso 024-2022-2023-CR, 21 de junio de 2023, available at: <https://busquedas.elperuano.pe/normaslegales/resolucion-legislativa-del-congreso-que-inhabilita-por-cinco-resolucion-legislativa-024-2022-2023-cr-2189699-1/>

²⁷⁶ Regarding violence in the context of Article 21 of the International Covenant on Civil and Political Rights, see Human Rights Committee, General Comment 37, paras 15-ss.

demonstrators or bystanders posed no apparent threat to security forces. The use of less lethal weapons was also documented that would be inconsistent with international standards, causing serious, disabling, and fatal injuries to protesters. These cases are under investigation by the Public Prosecutor's Office.

197. In some cases, injured protesters experienced delays in accessing urgent medical care and reported discrimination at hospital facilities. Injured protesters and their families suffered devastating physical and psychological effects that altered their life plans. Most of the victims were Indigenous people.

198. Hundreds of demonstrators were detained under the pretext of identity checks, in some cases *en masse*. Those interviewed reported a lack of legal safeguards in the context of detention, including undue interference with the right to a legal defence. In four cases, OHCHR documented situations that could imply cruel, inhuman and degrading treatment of protesters, possibly amounting to torture.

199. Criminal charges, including charges of terrorism, were brought against protesters and individuals active in the protests, which could have a deterrent effect on the exercise of the right to freedom of association. In some cases, these criminal charges raise concerns about their compatibility with international human rights standards. It is positive that some of these investigations have been closed.

200. Within a context of social and political polarisation, the practice of “terruqueo” and the use of language that labelled protesters as violent, vandals or linked to illegal activities increased in public discourse, as well as racist discourse with derogatory comments based on the protesters' ethnicity, social status or regional origin. Several individuals reported that security forces harassed and intimidated protesters, including using surveillance, threats, and other forms of coercion, as a means of deterring them or limiting their participation in demonstrations.

201. Journalists and media professionals involved in monitoring or reporting on the assemblies faced limitations in the exercise of their work, both from demonstrators and security agents, including threats, injuries and damage or confiscation of their equipment.

202. The Public Prosecutor's Office created a special team of prosecutors to investigate the events described in this report, with strengthened human and economic resources, which has made progress in determining criminal responsibilities. It is important that investigations ensure a victim-centred approach, including the active participation of victims, their families and their legal representation.

203. The Government has taken an important step by providing a one-time economic aid to the victims of the protests and their families. Also positive is the request for forgiveness from the President of the Republic, on behalf of the State, to the people affected during the demonstrations and her announcement on the re-launching of the National Agreement to work on a social agenda that addresses the needs of the population. All victims of human rights violations in the context of the protests must receive full reparation from the State.

204. On the other hand, measures are needed to reduce tensions, as well as to ensure the independence of electoral and judicial institutions, address structural racial discrimination, and implement pending security sector reforms.

205. OHCHR thanks the Government of Peru for the good coordination and openness during the meetings and recognises the commitment to a medium-term cooperation agenda with OHCHR, aimed at strengthening human rights capacities in the country. It recognises the efforts made in the management of the social demonstrations in July 2023 that resulted in fewer human rights impacts.

206. The following recommendations are intended to establish the necessary conditions to help reduce current tensions and polarisation and promote structural changes and reforms that address the root causes of human rights violations and ensure accountability for them.

Recommendations

207. Based on the above observations, OHCHR makes the following recommendations to the State:

- 1. Ensure that the policing of protests is planned and conducted with the objective of enabling it to proceed as planned, and with a view to minimising the possibility of injury to any person and damage to property.**
- 2. As expressed by the Human Rights Committee, refrain from declaring states of emergency except in truly exceptional situations. Ensure that all measures restricting or limiting rights are in full compliance with international human rights law.**
- 3. Ensure that all police contingents deployed in the context of policing assemblies, especially at the regional level, continue to receive substantive and effective practical training on the use of force in accordance with human rights standards, including non-violent assembly management and de-escalation tactics, and that they are regularly evaluated.**
- 4. Ensure that firearms are not used in the context of crowd control during social protests. Ensure the use of non-violent means before resorting to less lethal weapons, and that these are used in full respect of international human rights law and standards.**
- 5. Continue the process of harmonising national laws, regulations and manuals with applicable human rights standards on the use of force. Continue to move forward with the creation within the Ministry of the Interior of 1) the proposed Human Rights Directorate, and 2) the proposed Police Training Centre for the Maintenance of Public Order, providing them with adequate resources for their operation.**
- 6. Strengthen the internal accountability mechanisms of the National Police of Peru to systematically implement disciplinary investigations and corresponding sanctions in case of alleged human rights violations related to the use of force in the control of demonstrations and at the time of detention of demonstrators.**
- 7. Take all necessary measures to effectively address discriminatory or racist or gender stereotypes in society; as well as to protect community leaders, human rights defenders and journalists, including in relation to stigmatising messages and the practice of so-called “terruqueo.”**

- 8. Develop a protocol to guarantee freedom of expression and the safety of journalists and social communicators in the context of demonstrations, ensuring the broad and inclusive participation of journalists and social communicators in their development, in accordance with international human rights standards and good practices.**
- 9. Ensure that investigations into human rights violations in the context of demonstrations, such as those described in this report, are carried out in accordance with international human rights standards, within timely, independent, impartial, thorough, effective and transparent investigations and procedures.**
- 10. Ensure a victim-centered approach in all investigations and prosecutions, ensuring effective access to information and the participation of victims and their legal representatives in providing evidence, requesting expert opinions and any related procedures.**
- 11. Ensure that all authorities, including the National Police of Peru and the Armed Forces, cooperate with the judicial authorities, including the disclosure of any information within their exclusive competence that the judicial authorities deem relevant.**
- 12. Ensure that the prosecutor's office has adequate resources to carry out the investigation and prosecution of cases involving alleged human rights violations. Continue to provide the Institute of Legal Medicine and Forensic Sciences with the necessary technical and scientific resources to carry out its work.**
- 13. Guarantee due process to all persons detained and/or investigated, ensuring that charges are based on solid and valid evidence.**
- 14. As recommended by the Human Rights Committee, through the Congress of the Republic, to move forward with the revision of the definition of the crime of terrorism contained in Decree Law 25475, in order to strictly respect the principle of legality and avoid any arbitrary application with implications for the rights to life, liberty and personal security.**
- 15. As a measure to rebuild trust, foster spaces for dialogue between victims, their families and the authorities, including through official public acts of recognition/apology and spaces for dialogue, and adopt adequate and effective responses at the highest level to meet the demands of the population, whether political, economic or social.**
- 16. Prioritise the development, adoption and effective implementation of public policies to address structural problems, such as the National Human Rights Policy 2030, ensuring measures to address discrimination in all its forms, including social, economic and political areas.**
- 17. Continue positive efforts to provide immediate support to victims and their families, such as economic, physical and mental health support, including through the Multisectoral Commission for Victim Support, coordinated by the Ministry of Justice and Human Rights.**

18. Continue to cooperate with United Nations and regional human rights mechanisms and duly consider and implement the recommendations of these mechanisms, in particular those related to guaranteeing the necessary conditions for the full and free exercise of the right to peaceful assembly.

OHCHR Peru is available to continue technical cooperation with all stakeholders to advance the prompt and effective implementation of these recommendations.