

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

Lima, 17 May 2023

Introduction/background

Today, 17 May, I end my official visit to Peru, which I carried out at the invitation of the Government from 8 May. I would like to start by thanking the Government of Peru for its full cooperation before and during the visit. I was honoured to meet with the President of Peru, the Prime Minister, the Minister and Vice-Minister of Justice and Human Rights, the Ministers and senior officials of the Ministry of Defence, Ministry of Interior, Ministry of Foreign Affairs, and Ministry of Culture, as well as high authorities of the Ministry of Transportation and Communications, Ministry of Women and Vulnerable Populations, Ministry of Environment, Ministry of Energy and Mines, Ministry of Foreign Trade and Tourism, the Tribunal of Transparency and Access to Public Information, the National Jury of Elections, the National Office of Electoral Processes, the National Registry of Identification and Civil Status, the National Police of Peru, and the Joint Command of the Armed Forces, among others. I am also thankful for the meetings with the Public Prosecutor, the President of the Congress, members of the Supreme Court of Peru, the Constitutional Tribunal, and the judiciary, as well as with representatives and members of the National Penitentiary Institute, and the Multisectoral Commission related to the protests.

Following my meetings in Lima, I also visited Cusco, Juliaca and Puno, where I was able to meet with regional and local institutions, judicial and prosecutorial authorities, and with military and police representatives. I also met online with the respective authorities in Ayacucho.

During my visit, I met with more than one hundred NGOs and civil society representatives from different districts of the country in Lima, Cusco, and Juliaca, as well as with representatives of the private sector. I also visited the detention center of Qqenccoro in Cusco, the penitentiary of Barbadillo, where I met with the former President Pedro Castillo, and police stations in Lima.

Among others, I wish to express my gratitude to the UN Resident Coordinator, to the ILO for their prompt cooperation, and to all UN agencies in the country for their support.

I also wish to thank the national coordinator of the civil society human rights network, the Ombudsperson, Peruvian civil society and non-governmental organisations (NGOs), associations, trade unions, protestors, indigenous leaders, environmental defenders, communal and youth leaders, journalists, as well as women and LGBTI defenders who met with me and recounted their experiences on what civic space, democratic rights and peaceful protest mean in Peru today.

Protestors and civil society are seeking ways to enrich Peru's democracy and, through protests, they have opened a pivotal public debate on the need for political reform, including addressing structural racism and social inequalities in Peru.

I wish to communicate to all people in Peru, that the right to freedom of peaceful assembly and association must be protected as a cornerstone of democracy.

In this regard, I would like to highlight the constructive cooperation of the Government of Peru with the United Nations human rights mechanisms, including with the special procedures of the Human Rights Council. Among others, I wish to thank the coordination of the Ministry of Foreign Affairs that facilitated this visit in a spirit of full and effective cooperation. Similarly, I wish to thank all those Government and State authorities that dedicated time to meet with me and address my questions and concerns, including President Dina Boluarte.

While the world is looking at the Government of Peru's response to overcome the current situation, I consider Peru's openness to international and regional human rights mechanisms,

and the related follow up meetings during this political crisis, as a good practice.

Also, I would like to commend the excellent work of the Office of the Ombudsperson at the time of my visit, which served the country as a key actor within the current crisis response. Its independence, transparency, and professionalism was critical in providing support to victims across the country. The Office's monitoring and observations to the Government, as well as its reports and documentation on human rights violations within protests, provides an important basis for the ongoing investigations.

In the past, Peru's judiciary has played an important role fighting impunity and upholding human rights standards. There have been a series of judicial decisions protecting the rights to peaceful assembly and association, particularly against blanket restrictions and criminalization. Today more than ever, Peru's judiciary must act with independence in order to preserve the rights to peaceful assembly and association. Victims rely on the judicial apparatus to uphold human rights standards and effectively protect their rights.

Economic, social and cultural rights as root causes of peaceful protests

The right to hold protest is a form of the exercise of the right to peaceful assembly. In any democratic society, protest is a tool at the disposal of people to express their grievances, to ask for political and social changes, and to foster their participation within public spheres. Protests offer authorities an opportunity to foster the dialogue with communities and to acknowledge and address the challenges they face. Therefore, protests represent an essential component of any democratic society. In this sense, it is important to address the root causes behind the latest protests that started on 7 December 2022, in Peru.

As highlighted by the World Bank, Peru had one of the highest economic growth rates in the 21st century, which has brought its Gross Domestic Product (GDP) from 54.78 billion dollars (USD) in 2002 to 228.32 billion USD in 2019. However, this economic growth is not reflected in the distribution of wealth throughout the country, with several provinces being historically neglected. Such economic growth was not accompanied by significant improvements in access to education, health, housing, access to justice and other basic services for life. In addition, there is a deep gap in the access and quality of these services for people living in poverty and between rural and urban areas. Like in many countries, the pandemic exacerbated Peru's existing inequalities.

From the testimonies I heard during my mission, the demonstrations that took place between December 2022 and January 2023 are moved by structural inequalities that particularly affect the life of rural and indigenous communities. Lack of political representation and access to economic, social, cultural and environmental rights, including the rights to education, health, and water and sanitation, are among the major concerns that have been raised with me. I also understand that, historically, problems of contamination by the extractive industry and mining sector, together with a wide range of environmental concerns have also been at the heart of past protests, particularly in rural areas.

The inequalities especially affect indigenous peoples and peasant communities, particularly those living in the South of Peru. There is a problem of structural racism and discrimination, which creates exclusion and is the cause of profound divisions within the country.

According to the Government, the sectors most affected by the latest social protests were firms, with more than 360,546 firms involved (45.6%), followed by Transportation in 8.8% (69,297 companies), Hotels and Restaurants in 6.0% (47,589 companies), Manufacturing in 9.5% (75,236 companies), among others.

While I take note that the Government reported initiatives to prevent racial and ethnic discrimination, I believe that more efforts are needed to address inequalities and discrimination underlying the protests. In particular, there is a need for concrete commitments, as well as policy and legal reforms, to ensure the participation of rural

communities and indigenous people, access to justice, and effective enjoyment of economic, social and cultural rights.

In this regard, the Government highlighted that the National Jury of Elections (JNE) showed that there has been an increase in the participation of candidates from indigenous peoples in subnational elections. However, it is clear that much more needs to be done to increase political representation of rural areas, indigenous communities, and Afro-descendants, and to address existing inequalities access to economic, social, cultural and environmental rights in the country.

The right to peaceful assembly and association

During my visit, I received information about a Supreme Court Judgement (*Recurso de Casación n. 1464-2021/Apurímac*), which may seriously undermine the right to protest peacefully as recognized under the international law. In this regard, I wish to recall that, in addition to the jurisprudence of the Inter-American Commission on Human Rights, the Human Rights Committee, in its General Comment No. 37, has pointed out that "Article 21 of the International Covenant on Civil and Political Rights (ICCPR) protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination of the above. Such assemblies can take many forms, including demonstrations, protests, assemblies proper, processions, rallies, sit-ins, candlelight vigils and flash mobs. They are protected under Article 21, whether static, such as picketing, or in motion, such as processions or marches".

Indeed, Peru has a legal framework that generally protects the right to freedom of association and peaceful assembly. This right is protected constitutionally, through article 2.12 and 2.13.

Within article 2.12, the constitution establishes the requirement of a previous notice, but not an authorization for the realization of demonstrations. However, the implementing legislation requires "guarantees for public gatherings of a social nature". Since 2021, the national regulation even foresees the imposition of fines for carrying out demonstrations without prior guarantees or for exceeding the permitted capacity. According to the law, protestors must inform of the organization of any demonstration seven working days before the mobilization takes place, which in many cases is impossible for social organizations and collectives to comply with, especially when the demonstrations are spontaneous responses to events in the ever-changing national situation.

During my visits, I received several reports of protestors stating that their right to protest peacefully has been violated on the grounds of generic security or public order concerns; whereas international law requires that, any restriction should be justified on specific grounds and limited and proportionate.

I also learned about the existence of restrictions on the places where protests can be held. For example, in Lima restrictions on areas of the city where protests could be organized constituted a serious limitation to the right to peaceful assembly. Among others, on 15 February 2023, the Municipality of Lima declared the city's historic centre as an "intangible zone", prohibiting all forms of protests and gatherings that could "put public safety and/or health at risk". In this regard, I would like to reiterate that blanket restrictions do not meet the requirement of proportionality as enshrined in article 21 of ICCPR. Within the context of state's response to peaceful protests, states should envisage certain level of disturbance, such as traffic blocking, and be able to respond without the use of force.

Following my assessment during the visit, the violent police response to protests, the large number of detainees prosecuted during the protests, combined with the stigma linked to the protest, with protestors being referred to as terrorists or criminals, have negatively affected the protection of the right to protest peacefully in the country.

The recent political crisis and waves of protests

After the election of the former President Castillo, three attempts were made by Congress to remove him from office under a Constitutional provision related to “permanent moral incapacity”.

On 7 December 2022, the former President of the Republic, disregarding constitutional procedures, attempted to dissolve the Congress of the Republic and to reorganize the Judiciary and the Public Ministry. Likewise, he announced his decision to rule by decrees. The former President was removed from office and detained on charges of “rebellion” and “breaching the constitutional order”, after he had announced the “dissolution of the Congress.” The protests started after his arrest.

As highlighted by the Inter-American Commission on Human Rights, balance of power is required to ensure transparency and legal functioning of democratic institutions, while the separation of powers is also a guarantee for the rule of law and democracy. The Commission emphasised that, in Peru, three legislative provisions have been interpreted in ways that seem to have weakened the separation of powers and democratic rule. These provisions would be: i) the constitutional accusation, ii) the presidential vacancy due to permanent moral incapacity and iii) the dissolution of the Congress due to the denial of confidence to two councils of ministers. As the Commission highlighted, it is important to avoid any discretionary use of these measures and to comply with the requirements of due process and the rule of law.

Indigenous and rural communities I spoke with in rural areas reported discontent about the fact that the legislative and government powers have not addressed issues of primary concern for their communities. They were exasperated that their voice has been historically unheard, to an extent that they find that they have been unable to benefit from years of economic growth and democratic progress and that protests are the only way left to channel such concerns.

In this regard, I noticed how the lack of trust in Peru’s institutions is at the heart of the protest movement. Protestors expressed a lack of confidence in decisions made by the Parliament and the Executive branch, following Castillo’s removal. To address the current crisis, there is an urgent need that the Government and political parties ensure transparency and prioritize public interests within their actions, including by addressing corruption and impunity.

December and January 2023 protests

Disproportionate use of force

During my visit to Lima, Cusco and Juliaca, I received evidences (including videos, necropsy reports and testimonies), information, and testimonies of excessive use of the force by the police and the military against protestors. As confirmed also by the Human Rights Committee, the places where the majority of allegations have been allegedly committed within the context of the military and police interventions are Andahuaylas and Chincheros (Apurímac) on 11 and 12 December 2022, Ayacucho on 15 December 2022, in the premises of the Confederación Campesina del Perú, on 17 December 2022, in Juliaca (Puno) on 9 January 2023, in the Universidad Nacional Mayor de San Marcos in Lima on 21 January 2023, and in Iscahuaca (Apurímac) on 9 February 2023.

According to civil society’s reports, from 7 December 2022 to 7 April 2023, a total of 68 people died, in nine regions of Peru, in the context of protest, including Puno, Ayacucho, Apurímac, Cusco, La Libertad, Arequipa, Junin, San Martín, and Lima. Those killed during clashes with security forces were mainly from the southern regions of Peru.

I take note that the Government and law enforcement reiterated that the control of protests was a complex situation due to acts of violence by protestors, and army and police ensured that gradual use of force was embedded in their action and no lethal weapons were used. However, the allegations received during my visit, the testimonies of victims heavily injured, the clinic reports, the videos and photographic evidence, and the proportion of the number of victims between protestors and law enforcement, showed that state's response was indeed characterised by disproportionate use of force. This is confirmed by factors such as the high number of people killed and wounded with upper body injuries from firearms impacts, including pellets.

According to the information collected, out of the total number of people killed, 74% died because of confrontations with law enforcement. To a lesser extent, 16% people lost their lives because of traffic accidents or events related to roadblocks, and 10 % died as a result of conflict-related events.

I also received reports that in fourteen regions of Peru, 1419 people were injured because of the current political crisis and social conflicts. Several cases of injuries involved wounds to the head, to the face and to upper parts of the body, such as chest and torso, back, and arms. In several cases, projectiles hit the vital organs, a number of victims have been permanently injured, including amputations of their extremities as consequences of the use of lethal weapons, and several reported to have pellets in part of their bodies where doctors said they could not be removed, posing a serious threat for their health.

Most of protestors and victims within the context of protest belong to indigenous communities (Quechua or Aymara) or come from rural areas. Concerning the use of non-lethal weapons, several testimonies reported the widespread use of tear gas and pellet guns, causing serious injuries to protestors and other civilians. The right to access to healthcare was also seriously affected, including with regard to health care assistance within the context of protests.

In addition, during the interviews with communities, law enforcement and state authorities, it appeared that violent elements allegedly infiltrated the protest and caused serious damage to public and private properties. Military forces and police reported that law enforcement officials were wounded in the context of response to protest, and that violent occurrences within protests had major consequences for civilian population.

Although I condemn any act of violence during protests, I call for prompt and impartial investigations, ensuring judicial guarantees of the accused, and I wish to reiterate that even in situations of violence in protest, force must be used proportionately and as a last resort.

From the information I gathered during my visit, there were no elements indicating that the use of lethal force by security forces responded to imminent threats to life, as stipulated in international human rights standards. Impartial and independent investigations are therefore needed to clarify the facts and to prosecute those responsible.

Other groups affected

Regrettably, I received several reports of sexual violence against **women** detained in the context of protests, such as intimate searches and inappropriate touching, especially within the context of identification protocols. On this matter, the Government informed me that, as nowadays, state institutions had not received complaints of gender-based or sexual violence. However, these allegations should be promptly investigated.

I also received a number of allegations by **journalists**, who reported physical attacks, intimidations and threats within the context of the protests, including damages to their cameras and equipment, recurrent identification procedures and alleged arbitrary detention by law enforcement, with the highest concentration of such allegations in Lima.

At the same time, I noted with concern from the information and testimonies received, that some media and newspapers contributed to promote a negative rhetoric against protestors and protest movements, labelling them as terrorist initiatives with a hidden agenda. This contributed to exacerbate resentment against protestors, in particular in Lima, and to ostracise them. Therefore, it is important to remind that, while independent media are essential in a democratic society to ensure plurality of information sources, it is crucial to prevent their instrumentalization. Especially when it aims at spreading hate speech and stigmatising protest movements, marginalised communities and indigenous people.

I am also particularly concerned about the stigmatization and criminalization of **human rights defenders**, the persistent problematic practices of states' response within the context of social protests, and the lack of effective protection for defenders at risk.

I wish to recall that, also the Human Rights Committee expressed its concern about "allegations of insults, threats, harassment and intimidation against human rights defenders, including lawyers, members of the National Jury of Elections and journalists, as well as the alleged violations of the right to freedom of expression and the right to peaceful assembly that took place in the context of the demonstrations of November 2020 and since 7 December, 2022, in particular the excessive use of force against demonstrators and journalists by security forces, resulting in injuries and deaths"(CCPR/C/PER/CO/6).

In this regard, the Government reported efforts to protect and promote the rights of human right defenders. Along with other measures, an Intersectoral Mechanism for the protection of human rights defenders was created in 2021 by the Supreme Decree No. 004-2021-JUS.

Article 15 of the Convention on the Rights of the Child states that **children have the right to freedom of peaceful assembly**. Likewise, Article 2.12 of the Constitution of Peru and Article 21 of the International Covenant on Civil and Political Rights state that peaceful assembly is a fundamental right of any individual.

However, I collected reports of alleged irregular interventions carried out at the Universidad Nacional Mayor de San Marcos, on January 21, 2022, involving children. Adolescents, elderly people and peasants were allegedly target of arbitrary detention, intimidations and ill-treatments by law enforcement.

Trade unions

During my visit, I met with several **trade unions** who reported cases of violence, intimidation, and harassment during protests. In this regard, I wish to draw the Government's attention to the importance to promote social dialogue as a pillar of social cohesion. Recalling the crucial importance of social dialogue and consultation with organizations of employers and workers for the preparation and development of legislation on freedom of association, I regret that legislative changes and other measures are still needed to ensure the realization of this right in the country, including adequate protection against anti-union discrimination. In this respect, I urge the Government to promote social dialogue with employer and workers organizations, to agree on the amendment of the national legislation and practice, in line with the recommendations of the supervisory bodies of the International Labour Organization concerning the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), both ratified by Peru.

Following my visit, I wish to highlight that there is a urgent need to take appropriate measures to investigate crimes against indigenous peoples, guarantee their access to justice and to take effective action to promote their rights, in line with international human rights standards, including the Indigenous and Tribal Peoples Convention, 1989 (No. 169), ratified by Peru, as well as the recommendations in this respect of the supervisory bodies of the ILO.

Arrests and detention

During the visit, I collected several information about cases of alleged arbitrary detention under the pretext of “identity control”, in compliance with the Protocol for Identity Control by Peruvian National Police. According to such Protocol, police officers can identify and undertake background checks at a police station for a maximum of four hours. However, several testimonies explained that they were detained for longer periods and not being allowed to be in contact with their legal defence or their relatives.

In several cases, the arrests and police raid were massive and random. Students have also been a recurrent target of random attack and police’s repression within protests, as in the case of the reported intimidation and alleged arbitrary detention of people during a raid, on 21 January 2023, at the San Marcos University (UNMSM) in Lima, together with peaceful protestors from rural areas and indigenous communities who were invited by students to lodge at the university.

Structural racism and discrimination

At the end of this visit, I find myself deeply concerned about underlying racism and discrimination that aggravated this crisis and that, according to the information received, constitutes one of the root causes of the protest. During the testimonies collected, victims and others drew my attention to the widespread classism and social divisions that historically affect the country and that have never been solved.

According to the allegations received with regard to recent protests, such discrimination is also reflected in the way in which the central authorities reacted differently to the protests from the different regions of the country.

The information collected during the visit suggested that the killings of protestors and excessive use of force against them, occurred without accountability, especially in rural areas with high presence of indigenous communities.

As confirmed also by the Inter-American Commission and the Human Rights Committee, a strong stigmatization based on ethnic-racial and regional factors was observed in recent social protests, including by law enforcement officials. This includes messages reproduced by some authorities, perpetuating the notion that peasant and indigenous people who protest have links to acts of terrorism, including the use of words such as “terrorists”, “senderistas” or “Indians”. These messages contributed to create “an environment of humiliation, permissiveness and tolerance of institutional violence and discrimination against peasant communities and indigenous peoples in Peru, and made them relive old fear from the terrorist time.”

Moreover, public statements made by some high-level officials with racist or discriminatory content were not corrected nor followed by serious reparation nor public apologies. This aggravated the already high levels of racist and discriminatory stigmatization of protestors from rural areas and indigenous communities and contributed to the escalation of violence.

Challenges linked to the implementation of the legal framework

During my visit, I could observe that, within the context of protests, human rights have often been suspended through emergency laws or measures and ad hoc decrees. Such measures resulted in a limitation of the right to peaceful protests and assembly. In addition, its emergency nature, including of D.L. No. 1095 and the background rationale of its application, showed to be inadequate to address the root causes behind the current protests and crisis, while resulting in an excessive use of force.

In addition, Supreme Decree No 143-2022-PCM, dated 15 December 2022, provided, during the state of emergency, the suspension of several constitutional rights related to the inviolability of the home, freedom of transit within the national territory, freedom of assembly and liberty and security of a person, included in paragraphs 9), 11), 12) and 24) literal f) of Article 2 of the Constitution of Peru, are suspended.

Between December 2022 and January 2023, the Government declared a dozen of states of emergency curfews in different regions, especially in the South of the country.

In light of the information collected during my visit, I share the concern expressed by the Human

Rights Committee regarding the frequent use of armed forces during state of emergency, without its prior declaration, and the allegations of serious human rights violations committed by the security forces, including the armed forces, during states of emergency within the protests as of December 2022.

Counter-terrorism norms and their use in the context of protests

Between 1980 and 2000², in Peru, there has never been an effective process of truth and reconciliation concerning the historical internal conflict and related human rights violations, and the recommendations of the Commission of Truth and Reconciliation have never been fully implemented within the Peruvian democracy.

As highlighted also by the UN Human Rights Committee, the vague definition of "terrorism" established in the Anti-Terrorism Act (Decree Law No. 25475), may lead to arbitrary practice and abuse, and to exacerbate the association of persons exercising their rights to protest, expression, thought, assembly and political participation with behaviours or ideas inspired by terrorism. In this sense, the increase in the application of this kind of legal provisions within the framework of social protests is matter of primary concern, as many protestors were labelled as terrorists or insurgents.

Given Peru's difficult history of conflict against a terrorist movement, this is a particularly severe accusation that stigmatizes and revictimizes protestors, tends to legitimize the criminalization of violent acts committed against them, and undermines the overall right to peaceful protest.

Arbitrary arrests and detention of protestors

During my visit, I noted with preoccupation the information received concerning allegations of arbitrary detentions of protestors and the alleged misuse of pre-trial detention, without adequate access to justice or due process based on concrete evidence, and without any foreseen reparation or concrete access to remedies. In this regard, I wish to recall that the principle of not being deprived of the right to defence at any stage of the process, as stated in article 139 numeral 14 of the Constitution.

According to the current legal framework, adolescents over 14 years of age can only be detained by the police if they commit a flagrant (evident) crime. Nevertheless, I collected several testimonies and allegations of minors adolescents, mainly from indigenous communities and rural areas, being arbitrarily detained in police stations or commissaries.

Multisectoral Commission

As explained by the Government, in the session of the Plenary of the Congress of the Republic held on 12 January 2023, "Prior admission to debate, the Motion of the Agenda proposing the creation of a multiparty investigative Commission to determine the alleged criminal and political responsibilities of the serious violations of human rights, such as life and physical integrity, against citizens and law enforcement officers that occurred since December 7, 2022 throughout the national territory, as a result of the political crisis, was approved for a period of 90 calendar days (Motions 5039 and others)". While I encourage the creation of similar initiatives, I would like to highlight that the implementation of such Commission has not been effective to date, as the Commission has reported no initiatives so far, and no funding has been allocated for its functioning.

² See Human Rights Committee CCPR/C/PER/CO/6, para 10

Ongoing accountability process, the work of the Public Prosecutor office and challenges identified

The Public Prosecutor's Office (*Ministerio Público Fiscal de la Nación*), in accordance with articles 158 and 159 of the CPP, is an autonomous constitutional body whose attributions include promoting judicial action in defence of legality and the public interests protected by law, representing society in judicial proceedings and conducting investigations of crimes. The Public Prosecutor's Office created the Special Team of Prosecutors for cases involving victims during social protests (EFICAVIP), in order to focus exclusively on crimes committed against humanity. The Government explained that the team has a national scope, follows an intercultural and human rights approach, prioritizing the victims and guaranteeing their human rights in the development of its investigations. It further clarified that the main objective of EFICAVIP is to speed up investigations in order to conclude them in a reasonable and timely manner. To this end, it will have a specialized unit of forensic and victim assistance experts. In addition, the Government said that the team may also investigate cases related to crimes of homicide, serious injuries and extortion committed against journalists in the exercise of their functions, as well as crimes committed against human rights defenders, as part of their defence work.

According to the information received from the Government, the Special Team has been involved in fifty-seven (57) investigations and has carried out three hundred and twenty (320) proceedings pertaining to the investigations. In addition, on 31 December 2022, the Multisectoral Commission was established to attend to the bereaved of the deceased, as well as to those who suffered serious injuries.

Despite these measures, I wish to raise my concern about the decision to transfer the investigations of the most serious cases of violations against protestors from the provinces to Lima, which might prejudice the *in loco* collection of evidence and access to justice by victims. Such decision has contributed to increase victims and relatives' fears of impunity and lack of transparency within the ongoing investigation process.

Access to justice

According to the Government's report, the General Directorate of Public Defence and Access to Justice (DGDPAJ) of the Ministry of Justice and Human Rights (MINJUSDH), through the 34 District Public Defence Directorates nationwide, has provided free technical legal assistance and/or sponsorship to persons who have been intervened-detained in the framework of demonstrations, when they so decided.

However, I am concerned about the under-reporting of human rights violations that the country might face. During my visits, I noted that the main support that victims reported to have received was from the Office of the Ombudsperson and civil society organizations. In addition, I received information that several victims and their relatives were not able to report their stories due to language barriers and lack of legal assistance.

The Office of the Ombudsperson and the mechanism for the prevention of torture

As a national human rights institution, the Office of the Ombudsperson follows the Paris Principles, working with independence, autonomy, effectiveness and pluralism in the frame and guide to promote and protect human rights, so, according to article 162 of the Political Constitution of Peru, the Office of the Ombudsperson is responsible for defending the constitutional and fundamental rights of people and the community; and supervising the fulfilment of the duties of the state administration and the provision of public services to citizens. In that framework, during the first three months of the crisis, the Office of the Ombudsperson fulfilled these functions through its monitoring and supervision actions across

the country, especially in the regions involved in the crisis, and monitoring and supervision of State entities, with special emphasis on the care of people in vulnerable situations, accompanying victims' families.

The National Mechanism for the Prevention of Torture (MNPT) was established in line with the United Nations Convention Against Torture and its Optional Protocol; and from Law 30394, a law that expands the functions of the Office of the Ombudsperson as the body responsible for implementing it. This mandate consists of identifying and preventing torture practices and other cruel, inhuman, or degrading treatment or punishment that occur especially in contexts of deprivation of liberty. Under that mandate, the intervention of the MNPT in the context of the social protests initiated in December 2022 aimed at identifying the situations that could imply a risk of torture or ill-treatment for those people who were subjected to any of the forms of deprivation of liberty contemplated by law.

Preliminary observations and recommendations

As a matter of priority, I believe the Government should address the current institutional and social crisis by fostering public participation and representation, including of rural communities and indigenous people, as well as adopting political reforms that ensure more direct forms of representative democracy. Broadening the space for national dialogue by including the participation of communities that have been protesting, would certainly contribute to address the root causes of the protests. This encompasses to fully implement the ILO Convention 169, as well as 87 and 98.

The Government should address the root causes of the protest, which include overcoming historical socio-environmental conflicts and ensuring the enjoyment of economic social and cultural rights, including ensuring equal access to education and health care.

Also, the Government should address impunity and ensure access to justice and reparation for the victims of protests. The judiciary, including the Public Prosecutor's Office, must act with independence and accountability to fully preserve the rights to peaceful assembly and association. Indeed, victims rely on the judicial apparatus to uphold human rights standards and effectively protect their rights.

I wish to reiterate that the right to peaceful protest is a human right enshrined in international standards and in the Peruvian Constitution. In this regard, I am concerned about the judicial decision N. 1464-2021 by the Supreme Court and by the possible interpretations of the right to protest that such decision might imply. This could open to a setback in the recognition of the right of peaceful assembly in Peru and appear to be contrary to international human rights standards, including the Universal Declaration on Human Rights, the ICCPR (and General Comment No. 37 by the Human Rights Committee) and the Inter-American Convention, as well as ILO Conventions 87 and 98.

I also recommend to increase human and financial resources for the Ombudsperson Office and to guarantee its independence, considering the important role played by this institution in preventing and ensuring accountability for human rights violations in the country.

In order to ensure transparency and democracy, the Government should also safeguard the independence of electoral authorities. In addition, it should increase efforts to carry out and conclude the ongoing investigations regarding human rights violations within latest protests, in order to identify and prosecute those who are responsible and to prevent the recurrence of such violations.

This encompasses ensuring effective investigations and accountability for allegations of killings, excessive use of force, sexual and gender-based violence and arbitrary arrests, as well as strengthening the capacity of local judicial authorities to carry out prompt and independent *in situ* investigations.

All victims of violations and abuses of the rights to freedom of peaceful assembly and of association should have the right to an effective judicial remedy and to obtain redress and reparation, including free access to justice and health care. In addition, **to ensure the rights to freedom of assembly and association, the Government should:**

- Ensure a conducive and safe environment for everyone exercising or seeking to exercise her or his rights to freedom of peaceful assembly and of association and that there is no discrimination in the application of the laws, in particular regarding the groups at heightened risk of human rights violations and those expressing dissenting voices;
- Ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly and association, nor subjected to threats or acts of harassment, persecution, intimidation and reprisals;
- Ensure that there is no blanket restriction on the right to peaceful assembly in the country. In this context, it's important to lift "area" restrictions on the right to peaceful protest in Lima and other areas;
- Ensure that a wide range of civil society actors with diverse views are systematically consulted and actively contribute before the adoption of any legislative initiative and policies measures affecting their work and the communities they serve;
- Ensure that the procedures for the registration of political parties is simplified to allow representation and participation of communities, as well as for the creation and participation in trade unions, and ensure that all forms of peaceful protest are protected.

Reparation should be guaranteed by adopting comprehensive policy of access to remedies that takes into account the seriousness of injuries and the impact on the life of the victims and their relatives. This includes that the State should bear the cost of medical treatment of wounded persons and ensure proper access to remedies and reparation to all victims.

Addressing root causes of the protest implies that Indigenous communities should be free from fear of persecution when they associate and assemble, in order to be able to organize themselves freely and build up autonomous decision-making processes.

Law enforcement should be trained and capacitated to facilitate peaceful assembly. This includes developing a protocol for law enforcement officials on the facilitation of peaceful protest, in compliance with the international standards and best practices. Such protocol should prioritize de-escalation and negotiation strategies aimed at preventing and minimizing the use of force. In addition, the Government should ensure that the police is adequately equipped to facilitate peaceful protests, including in the occurrence of violent accidents, and to avoid the support of the army in the case of peaceful protests, as well as disproportionate use of force. In addition, the Government should create an effective, well-resourced, and independent oversight mechanism to investigate law enforcement conduct in the context of protests, including commanders. To avoid any use of lethal weapons, I also recommend banning the use of pellets and other indiscriminate less lethal weapons in the facilitation of peaceful protests.

As for Counter-terrorism measures, I share the concern of the Human Rights Committee, and I urge Peru to carry out a process of legislative review and reform aimed at ensuring respect for human rights in all counter-terrorism actions, including the revision of the definition of terrorism that should comply with international standards.

As for the International community, I recommend to provide technical support to the relevant institutions and civil society organizations working to ensure accountability for victims in the context of peaceful protest. The international community and financial institutions should also support Peru in its efforts to resolve its institutional and social crisis, by addressing inequalities and the needs of the most vulnerable.

To conclude, within the context of the current crisis and in order to fulfil its obligation to protect, I strongly recommend the Government to embed equality, transparency, accountability, justice and access to effective remedy and reparation as foundational values for Peru's democracy.