



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Initial reports of States parties due in 2004

**Peru\***

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## I. Introduction

1. The Government of Peru presents this initial report in accordance with its obligations under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

2. A planned, participatory approach was taken in the drafting of this report; all relevant sectors and stakeholders of the executive branch of Government and the judiciary cooperated to provide the information requested by the Ministry of Justice and Human Rights. The Directorate-General for Children and Adolescents of the Ministry for Women and Vulnerable Groups, which is responsible for matters relating to children in Peru, also provided information for the report and worked tirelessly with other public entities to identify the main achievements, advancements and challenges encountered in implementing the Optional Protocol.

3. The report has been prepared in accordance with the revised guidelines of the Committee on the Rights of the Child regarding initial reports to be submitted by States parties under article 8, paragraph 1, of the Optional Protocol (CRC/C/OPAC/2). This initial report contains specific information regarding the implementation of articles 1 to 7 of the Optional Protocol.

4. The final draft of the report was approved by the Office of the Deputy Minister for Human Rights and Access to Justice within the Ministry of Justice and Human Rights; the Office is responsible for, among other things, giving the final stamp of approval to periodic and other reports required by international human rights bodies.<sup>1</sup>

5. The Optional Protocol was ratified by Peru on 4 October 2001 by means of Supreme Decree No. 078-2001-RE.<sup>2</sup> It was incorporated into domestic law on 12 February 2002, in accordance with article 55 of the Constitution, which provides that treaties currently in force to which Peru becomes a party form part of the domestic legal framework.

6. Peru is also a party to other treaties that provide protection to children, including the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182),<sup>3</sup> and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>4</sup>

<sup>1</sup> Ministry of Justice and Human Rights. Supreme Decree No. 011-2012-JUS, adopting the regulations on the organization and functions of the Ministry of Justice and Human Rights. *El Peruano* (official gazette), 20 April 2012, article 16, para. (g).

<sup>2</sup> Adopted by the General Assembly of the United Nations on 25 May 2000. Signed by Peru on 1 November 2000. Congress of the Republic. Legislative Resolution ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Legislative Resolution No. 27518. *El Peruano* (official gazette), 13 September 2001. Ministry of Foreign Affairs. Ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Supreme Decree No. 078-2001-RE. *El Peruano* (official gazette), 6 October 2001.

<sup>3</sup> Congress of the Republic. Legislative Resolution ratifying the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No.182). Legislative Resolution No. 27543. *El Peruano* (official gazette), 11 October 2001. Ministry of Foreign Affairs. Ratification of the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182). Supreme Decree No. 087-2001-RE. *El Peruano* (official gazette), 19 November 2001.

<sup>4</sup> Congress of the Republic. Legislative Resolution ratifying the United Nations Convention against Transnational Organized Crime and its two additional Protocols: Protocol to Prevent, Suppress and

7. The four Geneva Conventions of 1949,<sup>5</sup> Additional Protocols I and II thereto of 1977<sup>6</sup> and the Rome Statute of the International Criminal Court have also been ratified.<sup>7</sup>

8. The Fourth Final Provision of the Constitution provides that the rules concerning the rights and freedoms recognized in the Constitution are to be interpreted in accordance with the Universal Declaration of Human Rights and international treaties and agreements on those rights which have been ratified by Peru; an interpretative provision that is echoed in article V of the preliminary title of the Code of Constitutional Procedure.<sup>8</sup>

9. Similarly, the judgement of the Peruvian Constitutional Court in cases Nos. 0025-2005-PI/TC and 0026-2005-PI/TC affirmed that international human rights law forms part of our domestic legal system.<sup>9</sup>

10. It is worth adding that, prior to the aforementioned judgement, the Court had noted in case No. 2798-01-HC/TC that “The binding obligation arising from the interpretation of human rights means, therefore, that all public activity should allow for the direct application of rules enshrined in international human rights treaties and the jurisprudence of international bodies to which Peru has subscribed”.<sup>10</sup>

11. From the information set out above and the decisions of the Constitutional Court it can be concluded that human rights treaties have constitutional status. Accordingly, public policies have been drafted in line with those treaties in order to foster, in this specific case, stronger protection measures in order to implement the Optional Protocol.

12. Peru places priority on protecting children in vulnerable situations, as demonstrated in article 4 of the Code of Constitutional Procedure, which states that: “The State and the community shall afford special protection to abandoned children and adolescents”.

13. All measures adopted by the State through the executive, legislative and judicial branches of government, the Public Prosecution Service, regional and local governments

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Punish Trafficking in Persons, Especially Women and Children and Protocol against the Smuggling of Migrants by Land, Sea and Air. Legislative Resolution No. 27527. *El Peruano* (official gazette), 8 October 2001. Ministry of Foreign Affairs. Ratification of the United Nations Convention against Transnational Organized Crime and its two additional Protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and Protocol against the Smuggling of Migrants by Land, Sea and Air. Supreme Decree No. 008-2001-RE. *El Peruano* (official gazette), 20 November 2001.

<sup>5</sup> Congress of the Republic. Legislative Resolution ratifying the four Geneva Conventions for the protection of war victims. Legislative Resolution No. 12412. *El Peruano* (official gazette), 9 November 1955.

<sup>6</sup> Congress of the Republic. Legislative Resolution ratifying Additional Protocols I and II to the 1949 Geneva Convention adopted at the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. Legislative Resolution No. 25029. *El Peruano* (official gazette), 1 June 1989.

<sup>7</sup> Congress of the Republic. Legislative Resolution ratifying the Rome Statute of the International Criminal Court. Legislative Resolution No. 27517. *El Peruano* (official gazette), 16 September 2001.

<sup>8</sup> Congress of the Republic. Code of Constitutional Procedure. Act No. 28237. *El Peruano* (official gazette), 31 May 2004. Article V of the Preliminary Title states: “The content and scope of the constitutional rights protected by processes governed by the present Code should be interpreted in accordance with the Universal Declaration of Human Rights, the human rights treaties, and decisions adopted by international human rights tribunals constituted under treaties to which Peru is a party.”

<sup>9</sup> Constitutional Court. Case No. 0025-2005-PI/TC and case No. 0026-2005-PI/TC. Lima. Bar Association of Arequipa and Others. 25 April 2006. Para. 25. Accessed on 12 May 2013. Available from <http://www.tc.gob.pe/jurisprudencia/2006/00025-2005-AI%2000026-2005-AI.html>.

<sup>10</sup> Constitutional Court. Case No. 2798-04-HC/TC. Lima. Gabriel Orlando Vera Navarrete. 9 December 2004. Para. 8. Accessed on 12 May 2013. Available from <http://www.tc.gob.pe/jurisprudencia/2005/02798-2004-HC.html>.

and other institutions concerned with matters relating to children have been drafted to respect and comply with the principle of the best interests of children and their rights.<sup>11</sup>

14. Article I of the Preliminary Title of Act No. 27337, which enacted the new Code on Children and Adolescents, thus defines a child as any human being from conception to 12 years of age and an adolescent as any human being from 12 to 18 years of age.<sup>12</sup>

15. The same law recognizes the rights of female and male children to respect and protection of their moral, physical and psychological integrity and to the enjoyment of unrestricted development and well-being, with forced recruitment of children being considered as an extreme measure that may result in bodily harm.<sup>13</sup>

16. The restructuring of the Ministry of Women and Social Development — now the Ministry for Women and Vulnerable Groups with responsibility for, among other matters, the promotion and protection of the rights of children and adolescents — is also in line with a range of child protection policies adopted by the State.<sup>14</sup>

17. The Directorate-General of Children and Adolescents, which comes under the aegis of the Office of the Deputy Minister for Vulnerable Groups within the Ministry for Women and Vulnerable Groups, acts as the agency responsible for proposing, coordinating, harmonizing, implementing, supervising, monitoring and evaluating all policies, guidelines, plans, programmes and projects having to do with children and adolescents and the furtherance of their well-being and full development.<sup>15</sup>

18. The Ombudsman's Office, within scope of its powers,<sup>16</sup> approved the creation of a unit to defend and promote the rights of children and adolescents with a view to contributing to the enhancement of the legal regime and to the development and improvement of public policy on children and adolescents.<sup>17</sup>

## II. Information relating to the articles of the Optional Protocol

### Article 1

19. Upon ratification by Peru, the Optional Protocol was incorporated into the domestic legal system and accorded constitutional status, by virtue of it being a human rights treaty. It is therefore binding on all public authorities in Peru.

20. The Constitutional Court has made reference to the “principle of special protection for children” in the following terms: “(...) by virtue of this principle, a child has the right to the enjoyment of special care and attention and to the opportunity for normal, full and healthy development in conditions of freedom and dignity. To that end, no legislation can

<sup>11</sup> See Congress of the Republic. Act adopting the New Code on Children and Adolescents. Act No. 27337. *El Peruano* (official gazette), 7 August 2000. Article IX of the Preliminary Title.

<sup>12</sup> Congress of the Republic. Act No. 27337. Article I, Preliminary Title.

<sup>13</sup> Act No. 27337. Arts. 1, 3, 4 and 5.

<sup>14</sup> The Executive. Decree-Law No. 1098. Decree-Law adopting the Act Establishing the Organization and Functions of the Ministry for Women and Vulnerable Groups. *El Peruano* (official gazette), 20 January 2012. Art. 5, para. (j).

<sup>15</sup> Ministry for Women and Vulnerable Groups. Supreme Decree No. 003-2012-MIMP adopting the Regulations on the Organization and Functions of the Ministry for Women and Vulnerable Groups. *El Peruano* (official gazette), 27 June 2012. Art. 55.

<sup>16</sup> Congress of the Republic. Act No. 2650, Organizing Act establishing the Ombudsman's Office. *El Peruano* (official gazette), 8 August 1995. Art. 7 and Art. 9, para. 7.

<sup>17</sup> Ombudsman's Office. Offices, Units and Programmes. Unit for Children and Adolescents. Accessed on 12 May 2013. Available from <http://www.defensoria.gob.pe/adjuntias.php?o=0#65>.

disregard the rights of the child or establish measures that would not be conducive to ensuring their full and harmonious development inasmuch as, pursuant to article 4 of the Constitution, the physical, mental, moral, intellectual, spiritual and social development of the child is established as a constitutional objective that must be fulfilled by society, the community, the family and the State”.<sup>18</sup>

21. There are also various public policies that contain provisions to prevent the recruitment of children and adolescents. The National Plan of Action for Children and Adolescents for the period 2012–2021, adopted by means of Supreme Decree No. 001-2012-MIMP, includes expected outcome No. 23: “No children or adolescents take part in armed conflict”. One of the strategies for achieving that outcome is to foster compliance with the legal provisions prohibiting the recruitment of anyone under the age of 18 into the armed forces.

22. Similarly, Supreme Decree No. 004-2011-IN, issued on 19 October 2011, adopted the National Plan of Action to Combat Trafficking in Persons (2011–2016), which categorizes forced recruitment as a form of trafficking.

23. Although Act No. 28950, which amended article 153 of the Criminal Code in respect of trafficking in persons, does not expressly refer to this categorization, its inclusion in the National Plan of Action to Combat Trafficking in Persons is in line with the adoption of a broad perspective in defending human rights and the rights of potential victims of trafficking.<sup>19</sup>

24. Moreover, Decree-Law No. 1094, issued on 1 September 2010, adopted the Military and Police Criminal Code, which classifies the use of persons under the age of 18 in hostilities as a crime against persons protected by international humanitarian law (art. 88).<sup>20</sup>

#### **Training and dissemination measures in relation to human rights and international humanitarian law**

25. To ensure that no person under the age of 18 may be conscripted into its armed forces, Peru has taken the following steps to provide training on and raise awareness of international human rights law and international humanitarian law:

(a) The recently adopted Act Establishing the Organization and Functions of the Ministry of Defence provides that it is a specific duty of the Ministry in this area to: “require mandatory courses on fundamental rights and constitutional processes in training centres in the sector”.<sup>21</sup> Training on human rights and international humanitarian law is provided by its centres, such as the National Advanced Studies Centre and the Centre for International Humanitarian Law and Human Rights.<sup>22</sup> These centres are responsible for

<sup>18</sup> Constitutional Court. Case No. 01817-2009-PHC/TC. 7 October 2009. Grounds, section. 2, subsection 7.

<sup>19</sup> National Plan of Action to Combat Trafficking in Persons in Peru 2011–2016, section 3.3.7. Forced Recruitment, p. 19. Accessed on 18 December 2013. Available from [http://www.mininter.gob.pe/userfiles/DS-MIN-004-2011\(1\).pdf](http://www.mininter.gob.pe/userfiles/DS-MIN-004-2011(1).pdf)

<sup>20</sup> It should be noted that a case has been filed with the Constitutional Court challenging the constitutionality of several articles of Decree-Law No. 1094, including art. 88. See Constitutional Court, case No. 022-2011-PI/TC. Accessed on 10 July 2013. Available from <http://es.scribd.com/doc/105635557/Demanda-de-inconstitucionalidad-contra-los-decretos-legislativos-1094-y-1095>.

<sup>21</sup> The Executive. Decree-Law adopting the Act Establishing the Organization and Functions of the Ministry of Defence Act. Decree-Law No. 1134. *El Peruano* (official gazette), 10 December 2012. Art. 6, para. 19.

<sup>22</sup> Ministry of Defence. Regulations on the Organization and Functions of the Ministry of Defence. Supreme Decree No. 001-2011-DE. *El Peruano* (official gazette), 3 March 2011. Arts. 66 and 67.

organizing and managing training programmes for the armed forces and for staff of State institutions at the national and decentralized levels.

(b) The aforementioned legislation also establishes that Armed Forces Joint Command is responsible for planning, preparing, coordinating and conducting the military operations and activities of the armed forces, which must be carried out in conformity with human rights and international humanitarian law.<sup>23</sup> It is also a function of the Armed Forces Joint Command to “circulate and ensure compliance with international and national legal provisions and agreements signed by the State that relate to international human rights law and international humanitarian law”.<sup>24</sup>

(c) Human rights and international humanitarian law training tools include the Handbook of International Humanitarian Law and Human Rights for the Armed Forces<sup>25</sup> and the Ten Commandments for the Forces of Law and Order.<sup>26</sup> The latter document sets out the fundamental rules that members of the armed forces must bear in mind and adhere to in all situations and circumstances in order to ensure that human rights are respected and upheld at all times in any action undertaken by the forces of law and order.

(d) Directive No. 01-2012-MINDEF-VPD-CDIH-DH-FFAA, adopted in January 2012 by the Ministry of Defence, established the administrative rules and procedures for academic activities aimed at organizing and providing international humanitarian law and international human rights law training, within which special consideration is given to topics on the rights of children and adolescents.<sup>27</sup>

(e) Directive No. 001 MINDEF/CEA-DIH, adopted by means of Ministerial Resolution No. 536-2004-DE-SG (5 May 2004), also establishes provisions for integrating international humanitarian law into military doctrine and training.<sup>28</sup>

26. From the foregoing it is clear that considerable headway has been made in integrating human rights standards and international humanitarian law into the training of the armed forces, thereby complying with the provisions of the Optional Protocol relating to the adoption of measures to prevent anyone under the age of 18 from taking a direct part in hostilities.

#### **Number of minors associated with the armed forces or armed groups**

27. According to the Office of the Deputy Ombudsman for Human Rights and Persons with Disabilities within the Ombudsman’s Office, several cases of minors being recruited by members of the armed forces have been identified. The Ombudsman’s Office also reported that three minors had died as a result of carrying out military service, and it brought those cases to the attention of the Public Prosecution Service.<sup>29</sup> Between 2009 and

<sup>23</sup> The Executive. Decree-Law No. 1134. Art. 14.

<sup>24</sup> The Executive. Decree-Law on the Armed Forces Joint Command. Decree-Law No. 1136. *El Peruano* (official gazette), 10 December 2012. Art. 7, para. 28.

<sup>25</sup> Ministry of Defence. Manual for the Armed Forces: human rights, international humanitarian law. Vice-ministerial Resolution No. 048-2010/DE/VPD. 21 May 2010. Accessed on 3 January 2013. Available at [www.mindef.gob.pe/informacion/documentos/manual\\_ddhh\\_ffaa\\_2010.pdf](http://www.mindef.gob.pe/informacion/documentos/manual_ddhh_ffaa_2010.pdf).

<sup>26</sup> Ministry of Defence. Human Rights. 1991. Accessed on 3 January 2013. Available from [http://www.mindef.gob.pe/vercontenido.php?archivo=menu/ddhh/d\\_humanos/decalogo.htm](http://www.mindef.gob.pe/vercontenido.php?archivo=menu/ddhh/d_humanos/decalogo.htm).

<sup>27</sup> Ministry of Defence. Memorandum No. 484-2013-MINDEF/VPD/C/CDIH. 26 September 2013.

<sup>28</sup> Ministry of Defence. Adoption of Directive No. 001 MINDEF/CEA-DIH on integrating international humanitarian law into the principles and training of the armed forces. Ministerial Resolution No. 536-2004-DE-SG. 5 May 2004.

<sup>29</sup> Ombudsman’s Office. Office of the Deputy Ombudsman for Human Rights and People with Disabilities. Communication No. 320-2013-DP/ANA. 23 September 2013.

September 2013, 142 such cases were reported, with the figures revealing a downward trend overall, as can be seen in the table below.<sup>30</sup>

Table 1  
**Number of minors recruited by the armed forces**

| <i>Year</i>  | <i>Number of minors recruited</i> |
|--------------|-----------------------------------|
| 2009         | 107                               |
| 2010         | 16                                |
| 2011         | 12                                |
| 2012         | 4                                 |
| 2013         | 3                                 |
| <b>Total</b> | <b>142</b>                        |

*Source:* Ombudsman’s Office. Office of the Deputy Ombudsman for Human Rights and Persons with Disabilities. Memorandum No. 320-2013-DP/ANA, 23 September 2013.

Prepared by: Ombudsman’s Office.

28. In Report No. 015-2012-ANA/DP of 18 March 2012,<sup>31</sup> drawn up by the Office of the Deputy Ombudsman for Children and Adolescents within the Ombudsman’s Office, the *Sendero Luminoso* (Shining Path) engaged in the recruitment and enlistment of children,<sup>32</sup> as did the Communist Party of Peru (in 1983, 1985, 1987 and 1990).<sup>33</sup> The report also mentions various press articles which suggest that children may have been used to perpetrate terrorist attacks, particularly in the area of the valley of the Apurímac, Ene and Mantaro rivers (VRAEM).<sup>34</sup>

29. The Government’s Programme for Multisectoral Action in the VRAEM Region 2013–2016 was adopted (by means of Supreme Decree No. 077-2013-PCM of 26 June 2013) in an effort to tackle the problem.<sup>35</sup> The Programme’s aim is to bring peace, security and law and order to the area so as to improve the quality of life for people living there. The Programme focuses on four main areas of action: (a) combating poverty, (b) combating inequality, (c) combating drug trafficking and criminal gangs and (d) combating terrorism.

30. The above-mentioned Supreme Decree also provides for the adoption of results indicators and their prioritization in order to facilitate the implementation and monitoring of the activities, and the submission of periodic activity and outcome reports by the various

<sup>30</sup> Ombudsman’s Office. Communication No. 320-2013-DP/ANA. 2 September 2013.

<sup>31</sup> Ombudsman’s Office. Report No. 015-2012-ANA/DP (no date) by the Office of the Deputy Ombudsman for Children and Adolescents, issued under memorandum No. 020-2012-DP/PAD. 18 March 2012. Page 7.

<sup>32</sup> Ombudsman’s Office. Report No. 015-2012-ANA/DP, loc. cit.

<sup>33</sup> See Truth and Reconciliation Commission. Final Report. Vol. VI, section 4: Human rights crimes and violations. Chapter 1: Patterns in the perpetration of human rights crimes and violations. 1.8 Violence against children. Page 613.

<sup>34</sup> Ombudsman’s Office. Report No. 015-2012-ANA/DP. Loc. cit. See Save the Children. Children used as soldiers in Peru. Report to the Inter-American Commission on Human Rights for its 138th regular period of sessions, submitted by the National Coordinator for Human Rights. First Edition. Lima. 2010. Pages 17–19. Accessed on 12 July 2012. Available at <http://www.savethechildren.org.pe/wp-content/uploads/2010/07/ninos-soldados-peru.pdf>.

<sup>35</sup> Office of the President of the Council of Ministers. Approval for the Government’s “Programme for Multisectoral Action in the Apurímac, Ene and Mantaro River Valley Region 2013–2016” intervention plan. Supreme Decree No. 077-2013-PCM. *El Peruano* (official gazette), 27 June 2013.



sectors to the Office of the President of the Council of Ministers. This information will be useful when it comes to allocating budgetary resources for institutions involved in implementing activities, programmes and projects that fall within the framework of the commitments made under the VRAEM intervention strategy.

## Article 2

### General scope of military service in the armed forces

31. In accordance with Act No. 29248, the Military Service Act, military service is an activity of a personal nature, by which all Peruvians may exercise their constitutional right and duty to participate in national defence, it is performed by men and women 18 years of age or older, without any discrimination.<sup>36</sup>

32. In addition, article 3 of the above-mentioned Act and its implemented regulations, adopted by means of Supreme Decree No. 003-2013-DE, stipulate that the dignity and fundamental rights of persons who perform military service are protected under the Constitution and institutional laws and regulations and under international conventions. Article 6 of Act No. 29248 also establishes a “prohibition on forced recruitment as a means of enticing persons for the purposes of enlisting them in military service”.

33. In the same vein, the Military Service Personnel Support Office, which is attached to the general inspectorates of the armed forces, is responsible for reporting to the General Inspectorate of the Ministry of Defence, maintaining communication between the institutions of the armed forces and the family members of military service personnel and collecting information on the quality of the benefits offered to military service personnel, with a view to proposing ways of continually improving those benefits.<sup>37</sup>

34. The length of military service within the armed forces is 12 to 24 months.<sup>38</sup> It may take the form of either full-time or part-time military service.

35. Full-time military service is performed while residing on a permanent basis within the units, bases and sections of the armed forces institutions. It is performed by persons between 18 and 25 years of age.<sup>39</sup> In order to perform military service, individuals are required to present a national identity document, be between 18 and 25 years of age and voluntarily express their willingness to perform military service.<sup>40</sup>

36. Part-time military service is performed on a voluntary and part-time basis within the units, bases and sections of the armed forces institutions. It is performed by young people (both male and female) who are enrolled in tertiary education at a university or technical school; these young people participate in military training on Saturdays and Sundays from

<sup>36</sup> Congress of the Republic. The Military Service Act. Act No. 29248. *El Peruano* (official gazette), 28 June 2008. Article 2. Amended by article 1 of Legislative Decree No. 1146. Legislative Decree amending Act No. 29248, the Military Service Act. *El Peruano* (official gazette), 11 December 2012. See art. 6 of the regulations implementing the Military Service Act. Supreme Decree No. 003-2013-DE. *El Peruano* (official gazette), 3 June 2013.

<sup>37</sup> See art. 40 of Act No. 29248 and art. 48 of Supreme Decree No. 003-2013-DE. The Military Service Personnel Support Office has the following duties: (a) ensuring respect for fundamental human rights; (b) keeping an up-to-date register of military service personnel serving in the armed forces; (c) receiving, processing, referring and reporting on complaints, requests and suggestions made by and events involving military service personnel.

<sup>38</sup> See Supreme Decree No. 003-2013-DE, art. 50.

<sup>39</sup> See art. 44 of Act No. 29248. Amended by article 1 of Legislative Decree No. 1146.

<sup>40</sup> See Supreme Decree No. 3-2013-DE, art. 62.

7.45 a.m. to 6 p.m. and may also be scheduled to attend training activities during school vacation periods. The length of part-time military service is 12 to 24 months.<sup>41</sup>

37. In order to perform part-time military service, individuals are required, inter alia, to present a national identity document, be between 18 and 30 years of age, voluntarily express their willingness to perform military service and present proof of enrolment in tertiary studies.<sup>42</sup>

38. Military service is also performed within self-defence committees and indigenous communities.<sup>43</sup> In the first case, military service is performed by members of self-defence communities who are of military service age and, in the second case, it is performed by indigenous men and women of military service age in both, in both nuclear and scattered settlements. The Armed Forces Joint Command, which is part of the Ministry of Defence, is responsible for entering data into, monitoring and updating the database of information reported regularly to the Ministry of Defence Central Military Records Office.<sup>44</sup>

39. According to the Military Service Act (Act No. 29248) and its implementing regulations (Supreme Decree No. 003-2013-DE), performing military service in self-defence communities and in indigenous communities is voluntary for all men and women between 18 and 30 years of age. The duration of such military service is two years, and it must be carried out in accordance with the requirements set by the armed forces.

40. It may be concluded from the above that, under the Peruvian legal system, persons under 18 years of age are not recruited into military service.

### Article 3

#### Voluntary recruitment of persons into the armed forces

41. The State of Peru made the following statement when it deposited its instrument of ratification of the Optional Protocol: “the Government of Peru declares that, in compliance with its article 3, paragraph 2, the minimum age for voluntary recruitment into the national armed forces, under national legislation, is 18 years.”<sup>45</sup>

42. Article 6 of Act No. 29248 prohibits forced recruitment as a way of enticing persons for the purposes of enlisting them in military service.<sup>46</sup> This is guaranteed by article 25, paragraph 8, of the Code of Constitutional Procedure, which lists as one of the rights

<sup>41</sup> Ibid., art. 70.

<sup>42</sup> Ibid., art. 73.

<sup>43</sup> In accordance with article 90 of Supreme Decree No. 003-2013-DE. Self-defence committees are organizations that have been established spontaneously and freely by inhabitants of rural or urban areas. Indigenous communities are organizations that have their origin in the tribal groups of the jungle and high jungle regions and are made up of groups of families who are bound together by cultural and social characteristics and by shared and permanent ownership and use of the same land, living in nuclear or scattered settlements. Self-defence committees are recognized under Legislative Decree No. 741, *El Peruano* (official gazette), 12 November 1991; article 17 (a) of its implementing regulations, adopted by Supreme Decree No. 0077-92-DE, *El Peruano* (official gazette), 11 November 1992, establishes that such committees shall comprise men and women between 18 and 60 years of age.

<sup>44</sup> Supreme Decree No. 003-2013-DE, arts. 91 and 92.

<sup>45</sup> United Nations Treaty Collection. Accessed on 12 May 2013. Available from [https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg\\_no=iv-11-b&chapter=4&lang=en#EndDec](https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=iv-11-b&chapter=4&lang=en#EndDec).

<sup>46</sup> See Act No. 29248, art. 6.

protected under the principle of habeas corpus “the right to decide voluntarily to perform military service, in accordance with the relevant law”.<sup>47</sup>

43. The Ministry of Defence, in various communications issued to the military regions, brigades and units and in statements it has released, has guaranteed that persons under 18 years of age will not be accepted into the armed forces.<sup>48</sup>

### **Information on schools run by the armed forces**

#### *Schools run by the Peruvian army*

44. The Peruvian army, through its Well-Being Liaison Office, administers and oversees 25 schools offering the regular programme of education at three levels (preschool, primary and secondary) as well as special basic education for children 3 to 17 years of age.<sup>49</sup>

45. It also operates 16 public schools for students 13 to 17 years of age through the Directorate of Education and Doctrine.<sup>50</sup>

46. In all of the above-mentioned schools, students have access to independent complaint mechanisms in the event of ill-treatment or injustice. Schools are subject to ongoing monitoring and oversight in order to prevent physical and/or psychological harm or punishment. Students may leave the schools of their own free will whenever they see fit and are not under any pressure to choose a military career.<sup>51</sup>

#### *Schools run by the Peruvian navy*

47. The schools administered by the Peruvian navy are operated under the coordination of: (a) the Navy Welfare Directorate; (b) the Naval Technical Institute of Higher Education; (c) the Naval Academy of Peru; (d) the Naval School of Health Services; and (e) the Seamen’s School of the Second Naval Zone.<sup>52</sup>

48. The Navy Welfare Directorate: The naval institutions managed by this Directorate operate in accordance with Ministerial Decision No. 0440-2008-ED<sup>53</sup> of the Ministry of Education, by which it adopted the national curriculum design for regular basic education for the following areas: civics and citizenship; personal, family and human relations; religious education; and tutorial support. This document sets out an obligation to develop curriculum content that will serve to create and strengthen awareness and implementation of the rights of children and adolescents.

<sup>47</sup> See Act No. 28237, art. 25, para. 8.

<sup>48</sup> Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. 7 November 2013. Annex 2, p. 17. The following communications have been issued by the Ministry of Defence: (1) Ministerial Order No. 012-DIRAC of 25 October 2010; (2) Memorandum No. NC-45-ORM2-No. 1080 of 17 November 2010 and (3) Message No. JRSJ-081450 of April 2010. The Ministry of Defence has also issued Directive No. 004 MINDEF-K of 4 February 2010, which establishes the responsibilities of the Military Service Personnel Support Office, and Directive No. 003/W-8 of July 2013 titled “General Call for Full-Time Military Service in the Armed Forces”, which concerns the military service performed by persons 18 years of age or older, including both men and women without discrimination.

<sup>49</sup> Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. 7 November 2013. In conjunction with: Ministry of Defence. Army of Peru. Memorandum No. 847/C-4/27.00 16 July 2013.

<sup>50</sup> *Ibid.*, Annex 2, p. 5.

<sup>51</sup> *Loc. cit.*

<sup>52</sup> *Ibid.*

<sup>53</sup> Ministry of Education. Adopts the national curriculum design for regular basic education. Ministerial Decision No. 0440-2008-ED. *El Peruano* (official gazette), 16 October 2008.

49. The curriculum includes cross-cutting content aimed at creating and strengthening children's and adolescents' awareness of their rights; it also includes workshops for students and parents on subjects relating to the rights of children and adolescents.

50. Rules on discipline and peaceful coexistence in navy schools are in accordance with the principles of the rights of children and adolescents. Their objective is to promote the holistic development of students in basic education while respecting their individuality, values, culture, language and beliefs and encouraging them to live in harmony with their peers, teachers, parents, authorities and fellow citizens. Students are taught to show respect for other people's time, thereby strengthening their civic-mindedness and their civic and patriotic education as part of the development of their identity and national allegiance, their civic spirit and their awareness of national history.

51. All navy schools are administered by the Navy Welfare Directorate and provide educational services to children of the institution's naval and civilian personnel.

52. In the event of an armed conflict, the navy schools will continue to operate normally. They are not considered to be military schools.

Table 2

**Navy schools run by the Navy Welfare Directorate, by level of study**

| <i>No.</i> | <i>Navy school</i>                  | <i>Type of education</i> | <i>Number of years of study</i> | <i>Number of teaching staff</i> |
|------------|-------------------------------------|--------------------------|---------------------------------|---------------------------------|
| 1          | Admiral Guise                       | Regular basic            | 13                              | 319                             |
| 2          | Rear Admiral Montero                | Regular basic            | 13                              | 290                             |
| 3          | Captain Germán Astete               | Regular basic            | 12                              | 165                             |
| 4          | Captain Juan Fanning García         | Regular basic            | 13                              | 130                             |
| 5          | Captain Francisco Carrasco          | Regular basic            | 13                              | 61                              |
| 6          | Captain Juan Noel Lastra            | Regular basic            | 13                              | 40                              |
| 7          | Lieutenant Commander Manuel Clavero | Regular basic            | 14                              | 244                             |
| 8          | Santa Teresa de Couderc             | Special basic            | 11                              | 149                             |
| 9          | Niño Jesús de Praga                 | Nursery-preschool        | 3                               | 117                             |
| 10         | Stella Maris                        | Nursery-preschool        | 4                               | 97                              |

*Source:* Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. Date: 7 November 2013. In conjunction with: Ministry of Defence. Navy of Peru. Memorandum No. G. 500-3559. Date: 12 September 2013.

Table 3  
Navy schools run by the Navy Welfare Directorate, by region and sex

| No.                             | Naval educational institution       | Number of students |              |              | Age                 | Region  | Urban or rural area |
|---------------------------------|-------------------------------------|--------------------|--------------|--------------|---------------------|---------|---------------------|
|                                 |                                     | Male               | Female       | Total        |                     |         |                     |
| 1                               | Admiral Guise                       | 1 065              | 965          | 2 030        | 4 to 16             | Lima    | Urban               |
| 2                               | Rear Admiral Montero                | 1 282              | 1 202        | 2 484        | 4 to 16             | Lima    | Urban               |
| 3                               | Captain Germán Astete               | 560                | 523          | 1 083        | 5 to 16             | Callao  | Urban               |
| 4                               | C. de N. Juan Fanning               | 446                | 390          | 836          | 4 to 16             | Lima    | Urban               |
| 5                               | Captain Francisco Carrasco          | 241                | 243          | 484          | 4 to 16             | Iquitos | Urban               |
| 6                               | Captain Juan Noel Lastra            | 131                | 116          | 247          | 4 to 16             | Paita   | Urban               |
| 7                               | Lieutenant Commander Manuel Clavero | 1 150              | 755          | 1 905        | 3 to 16             | Callao  | Urban               |
| 8                               | Santa Teresa de Couderc             | 90                 | 54           | 144          | 4 to 20*            | Callao  | Urban               |
| 9                               | Niño Jesús de Praga                 | 148                | 131          | 279          | 3 months to 3 years | Lima    | Urban               |
| 10                              | Stella Maris                        | 105                | 63           | 168          | 3 months to 4 years | Callao  | Urban               |
| <b>Total number of students</b> |                                     | <b>5 218</b>       | <b>4 442</b> | <b>9 660</b> |                     |         |                     |

*Source:* Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. Date: 7 November 2013. In conjunction with: Ministry of Defence. Navy of Peru. Memorandum No. G. 500-3559. Date: 12 September 2013.

53. The Naval Technical Institute of Higher Education:<sup>54</sup> The Institute is responsible for educating men and women who will join units of the Navy; it teaches specialized skills to future officers. Students attend the Institute for a period of three years.<sup>55</sup>

(a) As at November 2013 the Institute had 1,011 students, ranging in age from 15 to 21 years, of whom 866 were male and 145 were female;

(b) A technical education is provided (25 per cent military, 70 per cent academic and 5 per cent physical training);

(c) The curriculum is made up of six academic cycles, each of which lasts for six months. The teaching staff comprises 42 civilians and 221 military personnel. The curriculum includes lessons on the Constitution and human rights;

(d) In the event of troop mobilization and/or armed conflict, the students become part of the military reserve, in accordance with Supreme Decree No. 001-2010-DE-SG, Internal Regulations of the Armed Forces Training Centres, adopted on 10 January 2010.

<sup>54</sup> Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. In conjunction with: Ministry of Defence. Navy of Peru. Memorandum No. G. 500-3559. 12 September 2013.

<sup>55</sup> Navy of Peru. The Naval Technical Institute of Higher Education. Accessed on 19 November 2013. Available from <https://www.marina.mil.pe/page/citen>.

Table 4  
Number of students at the Naval Technical Institute of Higher Education, by age

| Age             |             | Number       |            |
|-----------------|-------------|--------------|------------|
| Men             | Women       | Men          | Women      |
| 15–18 years     | 15–18 years | 198          | 37         |
| 19–21 years     | 19–21 years | 668          | 108        |
| <b>Subtotal</b> |             | <b>866</b>   | <b>145</b> |
| <b>Total</b>    |             | <b>1 011</b> |            |

*Source:* Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. Date: 7 November 2013. In conjunction with: Ministry of Defence. Army of Peru. Memorandum No. 847/C-4/27.00. Date: 16 July 2013.

Table 5  
Number of students at the Naval Technical Institute of Higher Education, by region

| Region           | Women | Men | Total        |
|------------------|-------|-----|--------------|
| Piura            | 4     | 43  | 47           |
| Lima             | 117   | 719 | 836          |
| Arequipa         | 6     | 27  | 33           |
| Ucayali          | 1     | 19  | 20           |
| Iquitos          | 15    | 55  | 70           |
| Puerto Maldonado | 2     | 3   | 5            |
| <b>Total</b>     |       |     | <b>1 011</b> |

*Source:* Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. Date: 7 November 2013. In conjunction with: Ministry of Defence. Army of Peru. Memorandum No. 847/C-4/27.00. Date: 16 July 2013.

54. The Naval Academy of Peru:<sup>56</sup> The Academy trains cadets (both male and female) to take on professional roles in navy units. Applicants must be at least 15 years of age. There are currently 307 naval cadets and 99 naval-cadets-in-training.

(a) Post-secondary education is provided (25 per cent military, 70 per cent academic and 5 per cent physical training);

(b) The curriculum is made up of 10 academic cycles. The teaching staff comprises 40 civilians and 30 military personnel. The curriculum includes courses on international humanitarian law and human rights.

55. The Naval School of Health Services: The School accepts applicants between 15 and 23 years of age. There are currently 109 students in the technical training programme and 109 female nursing students.<sup>57</sup>

<sup>56</sup> Navy of Peru. Naval Academy of Peru. Accessed on 19 November 2013. Available from <http://www.escuelanaval.edu.pe/mision.php>.

(a) Post-secondary education is provided (20 per cent military, 70 per cent academic and 10 per cent physical training);

(b) The curriculum comprises 10 academic cycles for the female nursing students and 6 for students in the technical training programme. The teaching staff comprises 4 civilians and 19 military personnel. The curriculum includes courses on international humanitarian law and human rights.

56. The Seamen's School of the Second Naval Zone: The School accepts applicants between 18 and 25 years of age. There are currently 308 seamen-in-training.<sup>58</sup>

(a) Students receive military training and basic technical-occupational education while performing their military service (20 per cent military, 70 per cent academic and 10 per cent physical training);

(b) The length of the curriculum is 24 months. The teaching staff comprises 3 civilians and 36 military personnel. The curriculum includes courses on international humanitarian law and human rights.

*Schools run by the Peruvian air force*

57. The Peruvian air force operates schools throughout the country that provide basic education to the children of air force personnel. These schools are run by civilian personnel who follow the curriculum set by the Ministry of Education. Military personnel are not involved in the operation of the schools, which offer regular basic education at the preschool, primary and secondary levels.<sup>59</sup>

58. At the Air Force Officers' Academy, the minimum age for enrolment is 15 years and the maximum is 20 years, 11 months and 29 days. The Academy trains air force weapons officers using a curriculum comprising 12 per cent military, 48 per cent academic, 33 per cent psychophysical, 2 per cent moral and 4 per cent cultural training.<sup>60</sup>

(a) The length of the curriculum is five years, and the teaching staff comprises 25 officers and 24 civilians. The curriculum includes education on human rights and international humanitarian law;

(b) Cadets at the Air Force Officers' Academy received comprehensive training in accordance with the relevant regulations, including:

(i) The Internal Regulations of the Armed Forces Training Centres, adopted by Supreme Decree No. 001-2010-SG on 10 January 2010;

(ii) The Air Force Officers' Academy Handbook 50-2 titled "Education – The Cadet of the Officers' Academy", adopted by Directorate Decision No. 0082-EOFAP of 5 July 2010.

59. At the Master Sergeant Manuel Polo Jiménez Higher Technical Institute of Aviation, the minimum age for enrolment is 15 years and the maximum is 22 years, 11 months and 29 days. The Institute provides comprehensive training to supervisors, technicians and non-commissioned officers of the Peruvian air force.<sup>61</sup>

<sup>57</sup> Ministry for Women and Vulnerable Groups. Memorandum No. 567-2013-MIMP-DVMPV. 7 November 2013. In conjunction with: Ministry of Defence. Navy of Peru. Memorandum No. G. 500-3559. 12 September 2013.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

(a) The length of the curriculum is three years, and the teaching staff comprises 67 technical officers and 48 civilians;

(b) The curriculum includes education on human rights education and international humanitarian law.

60. In the event of troop mobilizations as a result of armed conflict, the Internal Regulations of the Armed Forces Training Centres, adopted by Supreme Decree No. 001-2010-DE-SG of 10 January 2010, apply; article 48 of the Decree addresses armed conflict situations and reads as follows:

“By order of the Chief of the Armed Forces Joint Command, cadets and students enrolled in the training centres of the armed forces may participate in internal and external armed conflicts, provided they have reached the age of majority (18 years).”

61. Article 49 of the regulations lists the possible reasons for discharge, which include “at the cadet’s own request”; thus, at any time during their military training, cadets may decide to withdraw from the Officers’ Academy.

62. It should be noted that, the rules for admission to the schools of the armed forces (navy, army and air force) require applicants to obtain the consent of their parents or guardian.

#### Article 4

63. The Truth and Reconciliation Commission<sup>62</sup> indicated in its final report that the recruitment of children and adolescents by subversive organizations during the period 1980–2000 was an extremely serious matter. The same report also stated that, from the outset of the conflict, minors were recruited to participate as members of the Shining Path, and that this was a systematic and widespread practice of this terrorist organization. The situation was at its worst during the periods 1983–1985 and 1987–1990.<sup>63</sup>

64. Forced recruitment and abduction accounted for 42.34 per cent of the acts committed against children by the Shining Path. This phenomenon was most widespread in four departments – now regions: Ayacucho (La Mar and Cangallo Provinces), Huancavelica (Huancavelica Province), Huánuco (Leoncio Prado and Ambo Provinces) and Junín (Satipo, Chanchamayo and La Merced Provinces).<sup>64</sup>

65. As for the Túpac Amaru Revolutionary Movement, forced recruitment and abduction accounted for 47.8 per cent of the acts committed against minors by this terrorist organization, with most occurring in the departments of Ayacucho, San Martín, Ucayali and Junín.<sup>65</sup>

66. In response, Peruvian authorities have undertaken significant efforts to rectify the situation and to safeguard the rights of children and adolescents.

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<sup>62</sup> Established by Supreme Decree No. 065-2001-PCM. *El Peruano* (official gazette), 4 June 2001. Its name and the number of its members were amended by Supreme Decree No. 101-2001, *El Peruano*, 3 August 2001.

<sup>63</sup> See Truth and Reconciliation Commission. Final Report. Vol. VI. Sect. 4: Human rights violations and offences. Chap. 1: Patterns in the perpetration of human rights violations and offences. 1.8. Violence against children. p. 613.

<sup>64</sup> Truth and Reconciliation Commission. Final Report, Vol. I, Part 1. The process, the events, the victims. Lima: Truth and Reconciliation Commission, 2003, p. 445 – CD version.

<sup>65</sup> *Ibid.*



### Involvement of children in armed groups

67. According to information provided by the Armed Forces Joint Command, there are two terrorist organizations operating in certain parts of the country, in which a state of emergency has been declared.<sup>66</sup>

(a) The terrorist organization known as the Shining Path of the VRAEM region (the valley of the Apurímac, Ene and Mantaro rivers), which operates in Huanta and La Mar Provinces in the department of Ayacucho; in Tayacaja Province in the department of Huancavelica; in the Andamarca and Comas districts of Concepción Province, the Santo Domingo de Acobamba and Pariahuanca districts of Huancayo Province, and in Satipo Province, all of which are in the department of Junín; and in the Kimbiri, Pichari, Vilcabamba and Echarate districts of La Convención Province in the department of Cusco;

(b) The terrorist organization known as the Shining Path of Huallaga, which operates in the Cholón district of Marañón Province, in the Monzón district of Huamalíes Province and in Leoncio Prado Province, all of which are in the department of Huánuco. It also operates in Tocache Province in the department of San Martín and in Padre Abad Province in the department of Ucayali.

68. Article 2, paragraph 1, of the Constitution affords protection from physical and mental harm, and article 24, paragraph (h) stipulates that “no one shall be subjected to moral, mental or physical violence or to torture or cruel or humiliating treatment”. Violations of these constitutional rights give rise to constitutional proceedings, specifically habeas corpus proceedings,<sup>67</sup> which punish acts or omissions by any authority, official or person that violate or threaten individual freedom or related constitutional rights.<sup>68</sup>

69. In addition, article 3, paragraph (c), subparagraph 2, of Decree Law No. 25475<sup>69</sup> on penalties for terrorism offences and the procedures to be followed in related preliminary investigations, investigations and trials, as amended by article 2 of Legislative Decree No. 921,<sup>70</sup> establishes a penalty of not less than 25 and not more than 30 years’ imprisonment for persons who cause minors to be involved in the commission of terrorism offences.

70. Article 6, paragraph A, of the above-mentioned Decree Law,<sup>71</sup> which establishes an aggravating circumstance in cases where minors are recruited to carry out terrorist acts,<sup>72</sup> states: “Anyone who, by any means, recruits or enlists individuals for the purposes of facilitating or committing terrorist acts shall be punished by imprisonment for not less than 20 and not more than 25 years. The penalty shall be imprisonment for not less than 25 and

<sup>66</sup> Ministry of Defence. Armed Forces Joint Command. Memorandum No. 1262 EMCFFAA/SEC. 2 October 2013.

<sup>67</sup> Act No. 28237. Code of Constitutional Procedure.

<sup>68</sup> *Ibid.*, art. 25.

<sup>69</sup> Executive Branch. Establishment of penalties for terrorism offences and the procedures to be followed in related preliminary investigations, investigations and trials. Decree Law No. 25475. *El Peruano* (official gazette), 6 May 1992.

<sup>70</sup> Executive Branch. Legislative Decree establishing the legal regime governing life imprisonment under national law and the maximum penalties for offences covered in articles 2, 3 (b) and (c), 4, 5 and 9 of Decree Law No. 25475. Legislative Decree No. 921. *El Peruano* (official gazette), 18 January 2003.

<sup>71</sup> Decree Law No. 25475. Provision added by article 1 of Legislative Decree No. 985. Legislative Decree amending Decree Law No. 25475, which establishes penalties for terrorism offences and the procedures to be followed in related preliminary investigations, investigations and trials; and Legislative Decree No. 923, which strengthens, organizationally and functionally, the defence of the State in terrorism cases. *El Peruano* (official gazette), 22 July 2007.

<sup>72</sup> Provision added by article 1 of Legislative Decree No. 985. *El Peruano* (official gazette), 22 July 2007.

not more than 30 years if the perpetrator recruits or enlists minors for that purpose. If the perpetrator is a public official or civil servant, he or she shall be disqualified from holding public office, as provided in article 36 (1), (2), (6) and (8) of the Criminal Code.” Reoffenders are also subject to a penalty of 30 years’ to life imprisonment.

71. Inasmuch as the recruitment of persons under 18 years of age violates other rights, article 152, paragraph 8, of the Peruvian Criminal Code, as amended by the first supplementary provision amending Act No. 30077,<sup>73</sup> establishes a penalty of not less than 30 years’ imprisonment for the act of depriving other persons of their liberty, without any right, motive or justifiable reason, for the purposes of forcing them to join a criminal group.

72. Similarly, the Ministry for Women and Vulnerable Groups has included among the strategic objectives of the National Plan of Action for Children and Adolescents 2012–2021, adopted by Supreme Decree No. 001-2012-MIMP,<sup>74</sup> outcome No. 23, “No children or adolescents take part in internal conflicts”, with the aim of ensuring that the relevant sectors will work together to prevent the voluntary or forced participation of children in internal conflicts.

73. Along the same lines, the Ministry of the Interior, through the National Police of Peru, has decided to include in its 2014 institutional operating plan awareness-raising campaigns in communities and schools throughout the country that are affected by police operations. The goal of no participation in internal conflicts by children and adolescents will be incorporated into these efforts.

74. The Ministry of the Interior has announced that, during the counter-terrorism operation “Shelter 2012”<sup>75</sup> carried out on 5 July 2012, the Anti-Terrorism Directorate of the National Police of Peru, together with the armed forces, succeeded in rescuing 11 minors (5 girls and 6 boys) who were in a camp run by a subversive group in the VRAEM region. The operation was conducted in coordination with the office of the eighth provincial prosecutor for family affairs of the judicial district of Lima, and as part of the operation measures were taken to ensure the safety of the rescued children by placing them in the San Carlos Comprehensive Development Centre run by the National Family Welfare Institute.<sup>76</sup>

75. The rescue of children and adolescents recruited by terrorist groups will also be included in the Ministry of the Interior institutional operating plan for 2014 as an activity for which the Anti-Terrorism Directorate is responsible.<sup>77</sup>

76. The National Plan of Action to Combat Trafficking in Persons 2011–2016, adopted by means of Supreme Decree No. 004-2011-IN, categorizes forced recruitment by armed groups as a form of trafficking.<sup>78</sup>

<sup>73</sup> Congress of the Republic of Peru. Act No. 30077. The Act on Organized Crime. *El Peruano* (official gazette), 20 August 2013.

<sup>74</sup> Ministry for Women and Vulnerable Groups. Supreme Decree adopting the National Plan of Action for Children and Adolescents 2012–2021 and establishing a multisectoral committee responsible for its implementation. Supreme Decree No. 001-2012-MIMP. *El Peruano* (official gazette), 14 April 2012.

<sup>75</sup> Ministry of the Interior. Memorandum No. 00982-2013/IN/DGSD/DDFG. 27 September 2013. See Ministry for Women and Vulnerable Groups. 2013. First Progress Report on the National Plan of Action for Children and Adolescents 2021 – issued in 2012. p. 103. Accessed on 17 September 2013. Available from [http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01\\_2011.nsf/d99575da99ebf305256f2e006d1cf0/2f8ba20b58d36f7c05257b5d00703b47/\\$FILE/OF.%20172.pdf](http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/d99575da99ebf305256f2e006d1cf0/2f8ba20b58d36f7c05257b5d00703b47/$FILE/OF.%20172.pdf).

<sup>76</sup> Ibid.

<sup>77</sup> Ministry of the Interior. Memorandum No. 00982-2013/IN/DGSD/DDFG. 27 September 2013.

77. Lastly, as noted above, the recruitment of children by terrorist groups such as the Shining Path and the Túpac Amaru Revolutionary Movement is criminally punishable under Decree Law No. 25475 establishing penalties for terrorism offences and the procedures to be followed in related preliminary investigations, investigations and trials and under supplementary regulations.

78. Peru, as a State party to the Rome Statute, acknowledges the grounds for the judgement of the International Criminal Court in the case of Thomas Lubanga Dyilo,<sup>79</sup> in which the court stated that the interpretation of active participation in hostilities should include both direct and indirect participation and cover cases in which children take part in hostilities as well as cases in which they perform a myriad of roles to support combatants, given that in both scenarios they are exposed to the danger of being a potential target for attack.<sup>80</sup>

## Article 5

### Other measures adopted

79. The Military and Police Criminal Code, adopted under Legislative Decree No. 1094, published on 1 September 2010,<sup>81</sup> governs crimes against international humanitarian law by members of those corps, including also crimes committed during states of emergency (arts. 81 to 98).

80. In the judiciary, initial steps have been taken to reflect the provisions of international humanitarian law in ruling on specific cases. One example is the ruling of the National Criminal Court of 13 October 2006 in case No. 560-03 against Abimael Guzmán Reinoso and others for, among other acts, the massacre of Lucanamarca (grounds, section 8).

81. In that ruling, the National Criminal Court combined international standards with domestic criminal legislation in finding grounds to hold Abimael Guzmán Reinoso criminally responsible for the aggravated homicide and crime against the life, person and health of Zaragoza Allauca Evanan and others (members of the Lucanamarca community).<sup>82</sup> The Court drew attention to the infringement of provisions of international humanitarian law, indicating that “article 3, common to the Geneva Conventions, prohibits, in the case of armed conflict not of an international character, violence to life and person, in particular murder of all kinds, with respect to the civilian population”.

<sup>78</sup> Ministry of the Interior. Supreme Decree No. 004-2011-IN. Adoption of the National Plan of Action to Combat Trafficking in Persons 2011–2016. *El Peruano* (official gazette), 19 October 2011. pp. 19 and 25.

<sup>79</sup> International Criminal Court. ICC-01/04-01/06. “Situation in the Democratic Republic of the Congo in the Case of the Prosecutor v. Thomas Lubanga Dyilo”. p. 628. 14 March 2012. Accessed on 17 September 2013. Available from [www.icc-cpi.int/iccdocs/doc/doc1379838.pdf](http://www.icc-cpi.int/iccdocs/doc/doc1379838.pdf).

<sup>80</sup> The Ministry of Justice and the National Commission for the Study and Application of International Humanitarian Law conducted a series of round tables called “The case law of the International Criminal Court (the Lubanga case, 2012) and the protection of children in situations of armed conflict”. Ayacucho, September 2012. Accessed on 17 June 2013. Available from <http://www.minjus.gob.pe/wp-content/uploads/2012/09/Programa-Lubanga.pdf>.

<sup>81</sup> It should be noted that a case has been filed with the Constitutional Court challenging the constitutionality of several articles of Decree-Law No. 1094, including art. 88. See Constitutional Court, case No. 022-2011-PI/TC. Accessed on 10 July 2013. Available from <http://es.scribd.com/doc/105635557/Demanda-de-inconstitucionalidad-contra-los-decretos-legislativos-1094-y-1095>.

<sup>82</sup> Consolidated case file 560-03, National Criminal Court, grounds, section 11.

82. By using this argument, the National Criminal Court was following the approach taken by the Peruvian Constitutional Court, which ruled that judicial protection “explicitly implies an obligation for the judicial authorities to conduct the legal proceedings for which they are responsible, subject to strict security measures, and establishing the applicable offences in accordance with the relevant provisions of international law”.<sup>83</sup>

83. As can be seen, the national courts have issued some important judicial decisions in which they have applied rules of international humanitarian law and also taken account of matters of public international law.

84. Furthermore, Supreme Decree No. 007-2006-MIMDES<sup>84</sup> set out a list of jobs and activities that are dangerous or harmful to the physical or moral health of adolescents, including “jobs in which adolescents (male or female) are exposed to physical, psychological or sexual abuse”.

85. In 2010, Supreme Decree No. 003-2010-MIMDES<sup>85</sup> adopted the list of dangerous jobs and activities that are dangerous or harmful to the overall health and morals of adolescents was adopted, which includes “jobs related to the manufacturing and handling of explosive substances for the manufacture of pyrotechnic articles or their placement for use as explosives”.

## Article 6

### Investigations, prosecutions and penalties

86. The forced recruitment of minors under the age of 18 is not expressly classified as a crime in the Criminal Code, although various bills have been presented to close this gap.<sup>86</sup>

<sup>83</sup> Constitutional Court of Peru. File 2798-04-HC/TC. Judgement of 9 December 2004, grounds, section 13.

<sup>84</sup> Ministry for Women and Vulnerable Groups. Supreme Decree No. 007-2006-MIMDES. List of jobs and activities that are dangerous or harmful to the physical or moral health of adolescents. *El Peruano* (official gazette): 25 July 2006. Work in dangerous conditions, B5.

<sup>85</sup> Ministry for Women and Vulnerable Groups. Supreme Decree No. 003-2010-MIMDES (*El Peruano*, 20 April 2010). Work of a dangerous nature, A20, and Ministry for Women and Vulnerable Groups. National Action Plan for Children and Adolescents 2012-2021. J&O Editores Impresores S.A.C. P. 91. Accessed on: 10 July 2012. Available from <http://www.unicef.org/peru/spanish/PNAIA-2012-2021.pdf>.

<sup>86</sup> These bills are:

(a) Bill No. 1615-2012-CR implementing the Rome Statute of the International Criminal Court. Congress of the Republic. Bill. Act on crimes against international human rights law and international humanitarian law. Accessed on: 3 January 2013. Available from:

[http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01\\_2011.nsf/0/df6d1ff83a3a6d9105257a9c0011dac3/\\$FILE/PL01615181012.pdf](http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/0/df6d1ff83a3a6d9105257a9c0011dac3/$FILE/PL01615181012.pdf);

(b) Consolidated bills No. 01078-2012/PE, No. 01831-2012/PE and No. 2719/2013-CR establishing penalties for crimes of recruitment of minors. Congress of the Republic. Preliminary opinion of the Justice and Human Rights Committee on bills No. 1078/2011-CR, No. 1831/2012-PE and No. 2719/2013-CR with a replacement text proposing the act to prevent conspiracy and terrorist recruitment and anti-democratic conduct of political organizations and to strengthen the work of the office of the special counsel-general for terrorist crimes. Accessed on: 6 December 2013. Available from:

[http://www2.congreso.gob.pe/sicr/comisiones/2011/com2011jusderhum.nsf/746aabb1ed76b49a05257a6900618267/7d13c0ff602404e905257bf300808485/\\$FILE/PL1078Y1831-ReclutamientoDeNi%C3%B1os.pdf](http://www2.congreso.gob.pe/sicr/comisiones/2011/com2011jusderhum.nsf/746aabb1ed76b49a05257a6900618267/7d13c0ff602404e905257bf300808485/$FILE/PL1078Y1831-ReclutamientoDeNi%C3%B1os.pdf);

(c) Bill No. 1079/2011-CR, act on the protection of child and adolescent victims of terrorism, drug trafficking and organized crime. Will add an article to the Criminal Code on the crime

However, a number of related offences are covered under Peruvian criminal law, including the following:

(a) Crime of endangerment (art. 125 of the Criminal Code<sup>87</sup>):

“Article 125. Anyone who exposes a minor, or a person who is unable to care for him or herself, who is legally under their protection or de facto under their care, to the risk of death or serious and imminent harm to that person’s health shall be punished by imprisonment for not less than 1 and not more than 4 years.”

(b) Crime of abduction:

“Article 152. Abduction. Anyone who, without right, motive or justifiable reason, deprives another person of his or her personal liberty, irrespective of the motive, intention, method or circumstance, or the time that the victim suffers the deprivation or restriction of his or her liberty, shall be punished by imprisonment for not less than 20 and not more than 30 years.

The term of imprisonment shall not be less than 30 years if:

1. The victim is abused, corrupted or treated cruelly or his or her life or health are put at risk.
2. Non-existence of mental illness in the victim is put forward as an excuse.
3. The victim or the perpetrator is a civil or public servant.
4. The victim is a diplomatic representative of another country.
5. The victim is abducted because of his or her activities in the private sector.
6. The victim is a relative, within the third degree of consanguinity or the second degree of affinity, of the persons mentioned in paragraphs 3, 4 and 5 above.
7. The objective is to force a civil or public servant to release a detainee or accede to illegal demands.
8. The offence is committed in order to force the victim to join a criminal organization.
9. The offence is committed in order to obtain bodily tissue from the victim.
10. The offence causes minor injuries to the victim.
11. The offence is committed by two or more persons or it is committed using minors or any other person who cannot be held criminally responsible.
12. The victim has a serious illness.
13. The victim is pregnant.

The same penalty shall apply to persons who contribute to the commission of the crime of abduction by providing information they have obtained by reason of or in connection with their duties, post or office, or deliberately provide the means for the commission of the crime.

The penalty shall be life imprisonment if:

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of enticement, recruitment and/or use of minors under the age of 18 by criminal organizations. Accessed on: 3 January 13. Available from: [http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01\\_2011.nsf/0/777602245557aac3052579f40001714b/\\$FILE/PL01079030512.pdf](http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/0/777602245557aac3052579f40001714b/$FILE/PL01079030512.pdf).

<sup>87</sup> Executive. Criminal Code. Legislative Decree No. 635. *El Peruano* (official gazette), 8 April 1991.

1. The victim is a minor or is over 70 years old.
2. The victim has a disability and the perpetrator takes advantage of this fact.
3. The victim suffers serious injury or death during the abduction or as a consequence of it.”

(c) Crime of trafficking in persons:

“Article 153. Trafficking in persons. Anyone who promotes, assists, finances or facilitates the recruitment, transport, transfer, harbouring, receipt or holding of another person in the territory of the Republic or their exit from or entry into the country, by means of violence, threats or other forms of coercion, deprivation of liberty, fraud, deception, abuse of power or of a situation of vulnerability, or payment or receipt of payments or benefits for the purposes of exploitation or sale of children in order to cause that person to engage in prostitution, subject him or her to sexual slavery or other forms of sexual exploitation, force him or her to beg or carry out forced labour or services, servitude, slavery or practices similar to slavery or other forms of labour exploitation, or for the purposes of removing or trafficking in human organs or tissue, shall be punished by imprisonment for not less than 8 and not more than 15 years.

The recruitment, transport, transfer, harbouring, receipt or holding of children or adolescents for the purposes of exploitation shall be considered trafficking in persons even if none of the methods described above are used.”

(d) Crime of aggravated forms of trafficking in persons:

“Article 153-A. Aggravated forms of trafficking in persons. The penalty shall be disqualification and imprisonment for not less than 12 and not more than 20 years, in accordance with article 36, paragraphs 1, 2, 3, 4 and 5, of the Criminal Code if:

1. The perpetrator commits the offence in abuse of public office;
2. The perpetrator is an agent, member or representative of a social, protective or business organization and takes advantage of this status and activities to commit the crime;
3. There are multiple victims;
4. The victim is aged between 14 and 18 years (but has not reached the age of 18) or does not have legal capacity;
5. The perpetrator is the spouse, partner, adoptive parent guardian or curator of the victim or a relative within the fourth degree of consanguinity or the second degree of affinity or has care of the victim for any reason or lives in the same home as the victim;
6. The act is committed by two or more persons.

The term of imprisonment shall be not less than 25 years if:

1. The crime causes the death or serious injury of the victim or puts his or her life or safety at imminent risk.
2. The victim is under the age of 14 or has a temporary or permanent physical or mental disability.
3. The perpetrator is a member of a criminal organization.”

87. Special mention should be made of the recent adoption of the Act against Organized Crime (Act No. 30077),<sup>88</sup> whose objective is to establish rules and procedures for the investigation, prosecution and punishment of crimes committed by criminal organizations. This Act amends article 152, paragraph 8, of the Criminal Code, establishing a penalty of not less than 30 years' imprisonment for anyone who, without right, motive or justifiable reason, deprives another person of his or her personal liberty in order to force that person to join a criminal group.

88. Article 88 of the Military and Police Criminal Code, adopted by means of Legislative Decree No. 1094 (*El Peruano*, 1 September 2010), provides for a penalty of imprisonment for not less than 3 and not more than 8 years for any member of the military or the police who, during a state of emergency and when the armed forces take control over public order, causes minors under the age of 18 to take part in hostilities, forcefully deports or transfers persons or takes hostage a person protected by international humanitarian law.

89. The provisions of article 117 of that Act are also applicable; that article establishes a penalty of imprisonment for not less than 1 and not more than 5 years for members of the military or the police who intentionally ignore the provisions of the laws, regulations or any other document governing the functions of the armed forces or the National Police of Peru.

### **Protection, recovery and reintegration measures**

90. The National System of Comprehensive Care for Children and Adolescents<sup>89</sup> brings together a group of public and private bodies and services that prepare, coordinate, supervise, evaluate and implement the programmes and actions developed for the protection and promotion of the rights of children and adolescents, with the Ministry for Women and Vulnerable Groups as the lead agency.

91. Article 32 of the Code on Children and Adolescents also provides for policy on promotion and programmes for the comprehensive care of children and adolescents to be issued by the Ministry for Women and Vulnerable Groups, which include prevention programmes guaranteeing adequate living conditions and rehabilitation programmes enabling physical and mental recovery and offering specialized care.

92. Article 39 provides for the establishment of special programmes for children and adolescents who are displaced and are victims of armed violence; the Ministry for Women and Vulnerable Groups will be responsible for bringing together national and international public and private bodies specialized in this area to implement the programmes.

93. The Office of the Ombudsman for Children and Adolescents provides services free of charge under the National System of Comprehensive Care for Children and Adolescents which, in accordance with article 42, operates within local governments, public and private institutions and civil society organizations with a view to promoting and protecting the rights of children and adolescents as recognized by law.

94. In accordance with article 45, the Office's specific functions include intervening when the rights of children or adolescents are threatened or violated in order to ensure that the principle of the best interests of the child prevails and lodging complaints with the competent authorities concerning rights violations and offences committed against children and adolescents.

<sup>88</sup> Congress of the Republic of Peru. 2013. Act No. 30077. Act against Organized Crime. *El Peruano* (official gazette), 20 August 2013.

<sup>89</sup> Congress of the Republic of Peru. Act No. 26518. Act on the National System of Comprehensive Care for Children and Adolescents. *El Peruano* (official gazette), 8 August 1995. Compare with chapter I of part 2 of Act No. 27337.

### Reparation measures adopted

95. Peru has made significant progress in establishing institutions and adopting measures to address the serious consequences of the political violence experienced between 1980 and 2000, including those related to forced recruitment, although greater efforts are still required in order to fully guarantee the right to reparation of the victims of the violence.

96. According to information provided by the technical secretariat of the Reparations Board, there are 683 persons under the age of 18 listed in the Central Register of Victims under the category of forced recruitment for the period 1980–2000. Of those, 541 are still living and 142 are deceased; 434 are males and 249 females.

Table 6  
Minors listed in the Central Register of Victims

| Department           | Living     |            | Deceased  |           | Overall total |
|----------------------|------------|------------|-----------|-----------|---------------|
|                      | Male       | Female     | Male      | Female    |               |
| Áncash               |            | 1          |           |           | 1             |
| Apurímac             | 66         | 40         | 10        | 3         | 119           |
| Ayacucho             | 104        | 54         | 24        | 11        | 193           |
| Cusco                | 6          | 2          | 1         |           | 9             |
| Huancavelica         | 23         | 12         | 5         | 1         | 41            |
| Huánuco              | 34         | 19         | 5         |           | 58            |
| Junín                | 83         | 61         | 46        | 34        | 224           |
| Lima                 |            | 1          |           |           | 1             |
| Pasco                | 5          | 3          |           |           | 8             |
| Puno                 | 3          | 1          |           |           | 4             |
| San Martín           | 11         | 3          | 1         |           | 15            |
| Ucayali              | 6          | 3          | 1         |           | 10            |
| <b>Overall total</b> | <b>341</b> | <b>200</b> | <b>93</b> | <b>49</b> | <b>683</b>    |

Source: Technical secretariat of the Reparations Board.

Prepared by: Technical Secretariat of the Reparations Board.

97. In addition, it has been reported that 610 minors joined self-defence committees, of whom 514 are living and 21 are deceased and 535 are male and 75 female.

Table 7  
Minors participating in self-defence committees

| Region       | Living |        | Deceased |        | Overall total |
|--------------|--------|--------|----------|--------|---------------|
|              | Male   | Female | Male     | Female |               |
| Apurímac     | 5      | 2      |          |        | 7             |
| Ayacucho     | 296    | 50     | 14       |        | 360           |
| Cusco        | 9      | 1      | 2        |        | 12            |
| Huancavelica | 121    | 19     | 1        |        | 141           |
| Huánuco      | 1      |        |          |        | 1             |
| Ica          | 5      |        |          |        | 5             |



| Region               | Living     |           | Deceased  |          | Overall total |
|----------------------|------------|-----------|-----------|----------|---------------|
|                      | Male       | Female    | Male      | Female   |               |
| Junín                | 58         | 1         | 4         |          | <b>63</b>     |
| Lima                 | 18         | 2         |           |          | <b>20</b>     |
| Ucayali              | 1          |           |           |          | <b>1</b>      |
| <b>Overall total</b> | <b>514</b> | <b>75</b> | <b>21</b> | <b>0</b> | <b>610</b>    |

Source: Technical secretariat of the Reparations Board.

Prepared by: Technical secretariat of the Reparations Board.

98. The measures adopted include the establishment of the High-Level Multisectoral Commission responsible for State actions and policies in the areas of peace, collective reparations and national reconciliation,<sup>90</sup> which has been implementing the Comprehensive Reparations Plan.<sup>91</sup>

99. Under the Comprehensive Reparations Plan, persons who were affected by forced recruitment and minors who were members of self-defence committees between 1980 and 2000 are entitled to benefits under reparation programmes in the areas of health, education, symbolic rights and restoration of civil rights. Accordingly, the following actions have been carried out since 2006.

(a) *Reparations in the area of health.* The objective of these reparations is to facilitate the mental and physical recovery of persons and groups listed in the Central Register of Victims who have physical and/or mental problems caused directly by, or as a consequence of, the violence.

(i) The Ministry of Health, in compliance with article 24 of the implementing regulations of the Comprehensive Reparations Plan, adopted by means of Supreme Decree No. 015-2006-JUS, established free health care for the beneficiaries of the Plan through the comprehensive health insurance scheme. Some 337 of the victims of enforced recruitment are covered by the scheme, as are 336 of the minors who participated in self-defence committees.

<sup>90</sup> The High-Level Multisectoral Commission, which is responsible for monitoring State actions and policies in the areas of peace, collective reparations and national reconciliation, was established under Supreme Decree No. 011-2004-PCM of February 2004, with the task of coordinating, monitoring and evaluating the implementation of the Comprehensive Reparations Plan, created under Act No. 28592, for victims of the violence that took place in Peru between 1980 and 2000. Until December 2011, the Commission was part of the Office of the President of the Council of Ministers. On 31 December 2011, by means of Supreme Decree No. 102-2011-PCM, it was transferred to the Ministry of Justice and Human Rights, like the Reparations Board responsible for the Central Register of Victims.

<sup>91</sup> With the objective of providing reparation to victims, contributing to the consolidation of peace among Peruvians and fostering national reconciliation, the Government adopted Act No. 28592 on the establishment of the Comprehensive Reparations Programme, *El Peruano* (official gazette), 28 July 2005, establishing the main law on reparations. Its implementing regulations were adopted by means of Supreme Decree No. 047-2011-PCM, *El Peruano* (official gazette), 29 July 2006, amended by Supreme Decrees No. 003-2008-PCM and No. 047-2011-PCM. The Comprehensive Reparations Programme was set up for the benefit of the victims of the violence that took place between May 1980 and November 2000. It comprises reparations programmes in the areas of health, education, restoration of civil rights, promotion of access to housing, and economic, symbolic and collective rights.

(ii) The beneficiaries of the Comprehensive Reparations Plan come under the subsidized financing regime, which covers the treatment of all kinds of illnesses, including cancer. It also includes a benefit for the cost of burial nationwide.

(iii) In the regions of Ayacucho, Junín, Huancavelica, Apurímac, San Martín, Ucayali, Huánuco, Puno and Pasco, the health networks have teams of psychologists to provide mental health care to the beneficiaries of the Comprehensive Reparations Plan.

(b) *Reparations in the area of education:* In accordance with article 17 of the Regulations on the Comprehensive Reparations Plan, the objective of this programme is to facilitate and create new or improved access to educational opportunities for victims and their families who, as a result of the violence, were not able to receive an adequate education or to complete their primary, secondary, higher technical and/or university studies.

(i) In the second half of 2012, the Ministry of Education, through the National Programme of Scholarships and Educational Credit, implemented the Reparations in Education for Victims of Violence (REPARED) scholarship, which provides full financing for university or technical studies for beneficiaries listed in the Central Register of Victims. It covers the cost of educational fees, accommodation, food, books, transport, medicine, tutorial support, medical insurance and photocopying.

(ii) Scholarship recipients who study in their home areas receive a monthly allowance of 850 nuevos soles (equivalent to approximately US\$ 304), and those who study in other cities receive 1,200 nuevos soles (approximately US\$ 430). They also receive 250 nuevos soles to purchase uniforms and 2,500 to purchase a laptop computer.

(iii) To date, two minors who were the victims of forced recruitment and one member of a self-defence committee have received benefits under the REPARED scheme. The first two are enrolled in the National Industrial Skills Training Service (SENATI) institute of higher education, and the total cost of their studies for the State will amount to 140 million nuevos soles (approximately US\$ 50,179,000); the other beneficiary is enrolled in the faculty of agro-industrial engineering at the University of San Ignacio de Loyola, at a total cost of 100 million nuevos soles (approximately US\$ 35,842,000).

(iv) In addition, the beneficiaries of the Comprehensive Reparations Plan can access public universities or institutes of higher education under the system of reserved places in the admission exams. Similarly, they are exempt from paying fees and administrative charges from when they enrol to when they obtain their academic qualification.

(v) Of the total number of victims of forced recruitment and minor members of self-defence committees listed in the Central Register of Victims, 48 received economic compensation<sup>92</sup> for having also suffered sexual violence (21), death (17), enforced disappearance (4) or permanent disability (6). The total amount paid for these is 340,630 nuevos soles (approximately US\$ 122,089).

<sup>92</sup> The normative framework for the economic reparations programme consists of Act No. 29979, Supreme Decree No. 051-2011-PCM of 16 June 2011 and Ministerial Resolution No. 184-2011-PCM, amended by Ministerial Resolution No. 149-2012-JUS. It establishes one-off compensation in the amount of 10,000 nuevos soles (equivalent to approximately US\$ 3,584) for victims of death, enforced disappearance, rape or permanent disability.

100. Inter-institutional agreements have been concluded with a view to ensuring psychological assistance to and recovery of the victims of the violence in the period from 1980 to 2000, including an agreement between the Japan International Cooperation Agency (JICA), the Universidad Nacional Mayor de San Marcos and the Ministry of Health (2005) for a project to strengthen comprehensive health care for victims of violence and human rights violations, including training for health-care personnel in the comprehensive care of victims of political violence in the regions of East Lima, Cusco, Ayacucho, Junín and Huancavelica.<sup>93</sup>

101. The Ministry of Health<sup>94</sup> has reported that it has launched, inter alia, the following actions aimed at providing care to those affected by the political violence, including children who were victims of forced recruitment:

(a) The adoption, by means of Ministerial Resolution No. 299-2012/MINSA, of a technical document containing guidelines for the psychosocial support of relatives of disappeared persons, with the objective of providing methodological tools to enable health-care personnel at the primary and secondary care levels to provide individual, family, community and social support to the relatives of persons who disappeared during the violence experienced between 1980 and 2000. This document makes reference to psychosocial support for relatives and victims, specifically establishing the health reparations programme, aimed at addressing the physical, emotional and psychological harm (such as anxiety, depression, alcohol and drug use, psychosis and domestic violence) and restoring and ensuring the full enjoyment of lost rights and living conditions, resources, skills, opportunities and quality of life.

(b) A technical document entitled “General Plan for the National Strategy for Mental Health and a Culture of Peace 2005–2010” was adopted by means of Ministerial Resolution No. 012-2006/MIN. Its objectives included developing a health reparations programme for those affected by the political violence. The guiding principle was the best interests of the child. Result 6.2 was to carry out actions for the full recovery, through community intervention, of the population in areas affected by political violence.

(c) A technical guide for the comprehensive treatment of victims of gender-based violence was adopted by means of Ministerial Resolution No. 141-2007/MINSA. It provides guidance to health-care personnel on actions for the promotion of healthy coexistence (a culture of peace) at different stages of life.

(d) Rules and procedures on preventing and dealing with domestic violence and child abuse were adopted by means of Ministerial Resolution No. 455-2001-SA/BM. They establish the technical criteria for the implementation of actions for promotion, prevention and comprehensive care in relation to the physical and mental health of victims of domestic violence and child abuse.

## Article 7

### Cooperation measures with States parties

102. Part 7, section VII of the new Code of Criminal Procedure, adopted by means of Legislative Decree No. 957,<sup>95</sup> contains provisions concerning cooperation with the

<sup>93</sup> Ministry of Health. Directorate General of Health Promotion No. 5. Health Promotion. Plan for reparations in the area of health for population affected by political violence. August 2005. p. 4. Accessed on: 17 September 2013. Available from: <ftp://ftp2.minsa.gob.pe/descargas/dgps/compendio/pdf/099.pdf>.

<sup>94</sup> Ministry of Health. Report No. 016-2013-SFS. 25 September 2013.

International Criminal Court. Specifically, in part 7 it is established that relations between the Peruvian authorities and foreign authorities and the Court in the area of international judicial cooperation are governed by the international treaties entered into by Peru; in the absence of such treaties, they are governed by the principle of reciprocity in the context of respect for human rights.

103. Similarly, training programmes on international humanitarian law offered by the Ministry of Justice,<sup>96</sup> which include instruction on the legal framework applicable to children associated with armed forces and groups, receive cooperation and technical assistance from the regional delegation of the International Committee of the Red Cross for Ecuador, Bolivia and Peru.

104. Since 2012, the Ministry for Women and Vulnerable Groups, in coordination with UNICEF Peru, UNICEF Colombia and the Colombian Family Welfare Institute, has been involved in a technical assistance mission for Peru and Colombia on the issue of children and adolescents rescued from armed groups. The first phase of this process involved the organization of a workshop, held in the city of Lima, on technical assistance and support to the Government of Peru for the development of a proposal on the support for children and adolescents rescued from terrorist groups.<sup>97</sup>

105. In the same vein, the Ministry for Women and Vulnerable Groups and the Colombian Family Welfare Institute have adopted a project aimed at preventing the recruitment and use of children and adolescents by illegal organized armed groups and criminal organizations, with the objective of making the national policy for the prevention of recruitment and use of children and adolescents known by strengthening local networks and supporting prevention and assistance plans.<sup>98</sup> The aim of this project is to develop joint strategies to deal with the issue.

### III. Final comments

106. In general, the policies implemented by the Government of Peru are aimed at consolidating the democratic system and the rule of law in order to ensure a climate of stability and political cooperation, consolidate democracy and guarantee free and transparent elections, pluralism and alternation of power. Since taking office in July 2011, the Government has:

(a) Defended respect for the Constitution, ensuring that Peru functions as a constitutional, unitary and decentralized State by undertaking institutional reforms and creating new institutions for the promotion of human rights;

<sup>95</sup> Executive. Legislative Decree No. 957 adopting the new Code of Criminal Procedure. *El Peruano* (official gazette), 11 January 2008. Part 7. In this regard, see in particular article 508. Part 7 comprises articles 508–566. The validity of part 7 of the new Code of Criminal Procedure is established under article 1 of Act No. 28671, amending the entry into force of the Code of Criminal Procedure and setting out supplementary rules for the implementation of the new Code (*El Peruano* (official gazette), 31 January 2006).

<sup>96</sup> The Directorate General of Human Rights of the Ministry of Justice and the technical secretariat of the National Commission for the Application of International Humanitarian Law jointly organize the “Miguel Grau” training courses on international humanitarian law, which involve the participation of foreign speakers thanks to the support of the International Committee of the Red Cross, regional delegation for Ecuador, Bolivia and Peru.

<sup>97</sup> *Idem*.

<sup>98</sup> Ministry for Women and Vulnerable Populations. Note No. 567-2013-MIMP-DVMPV. 7 November 2013.

(b) Fostered a democratic culture that promotes awareness among citizens of their rights and duties;

(c) Ensured respect for international human rights treaties through legal and institutional reforms.

107. We reaffirm the commitment of the Peruvian State to international and regional human rights systems and the country's openness to scrutiny and international cooperation.

108. Peru has adopted a range of measures (institutional, normative and relating to training and dissemination) with the dual objective of guaranteeing the rights of children associated with armed groups and forces and ensuring compliance with international obligations and commitments in this area.

109. These measures highlight the significant efforts that Peru has made to ensure that its policies, programmes and decisions are focused on: (a) preventing the recruitment of children; (b) fostering an atmosphere conducive to the protection and well-being of these children; (c) facilitating their reintegration; (d) and ensuring an environment in which they can develop with dignity.

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