
Translated from Spanish

7-1-SG/70

The Permanent Mission of Peru to the United Nations presents its compliments to the Secretariat of the United Nations (Office of Legal Affairs) and has the honour to refer to General Assembly resolution 63/125, in which the Secretary-General of the United Nations was requested to submit a report on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level.

United Nations Secretariat

Office of Legal Affairs

New York

In this connection, the Permanent Mission of Peru to the United Nations has the honour to transmit herewith the information requested by the Secretary-General for consideration in the report that he is required to submit to the General Assembly at its sixty-fifth session.

The Permanent Mission of Peru to the United Nations takes this opportunity to convey to the Secretariat of the United Nations (Office of Legal Affairs) the renewed assurances of its highest consideration.

New York, 17 September 2010

Report on the status of the Protocols Additional to the Geneva Conventions of 1949

and relating to the protection of victims of armed conflicts

In its resolution 63/125, the General Assembly requested the Secretary-General of the United Nations to submit to it, at its sixty-fifth session, a report on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, *inter alia*, with respect to its dissemination and full implementation at the national level.

To that end, the Secretary-General wrote to Member States requesting them to submit information that could be taken into consideration for the preparation of the report that he is required to submit to the General Assembly. Peru has the honour to transmit the said information in response to that request.

1. Legislation in force concerning international humanitarian law

The following laws concerning international humanitarian law have been enacted in

the Peruvian legal system:

- Law 27441 (29 May 2002), which establishes an education policy with respect to human rights and international humanitarian law and creates a national plan for the dissemination and teaching of those concepts
- Ministerial decision 536-2004-DE-SG (5 May 2004) approving Directive 001 MINDEF/CEA-DIH, with the aim of including international humanitarian law in the doctrine and training of the armed forces
- Law 28223 (20 May 2004) regulating internal displacement
- Law 28296 (22 July 2004) establishing the General Law on the Nation's Cultural Heritage, and its implementing regulations published on 2 June 2006 by Supreme Decree 011-2006-ED

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- Ministerial decision 1394-2004-DE-CCFFAA-CDIH-FFAA (8 December 2004),

establishing an international humanitarian law manual for the armed forces

 - Ministerial decision 325-2004-PCM (23 October 2004) creating a national register of

organizations representing persons affected by political violence who have suffered

acts or omissions that individually or collectively violated standards of human rights

protection under national law, international human rights law or international

humanitarian law

 - Law 28413 (11 December 2004) regulating absence by enforced disappearance in the

period 1980-2000

 - Supreme Decree 051-2005-RE (2 July 2005) approving the Regulations of the

Peruvian Centre for Action against Anti-personnel Mines (CONTRAMINAS)

 - Ministerial decision 936-2005-DE-SG (1 November 2005) approving the Code of

Ethics of the Peruvian Armed Forces

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- Ministerial decision 1452-2006-IN (12 June 2006) creating a manual on human rights applied to policing

 - Ministerial decision 0394-2007-IN-0103 (8 June 2007) creating a register of police observers in United Nations peacekeeping missions and police instructors in international humanitarian law and international human rights law applied to policing

 - Legislative Decree 1094 (1 September 2010) creating the Military and Police Penal Code

 - Legislative Decree 1095 (1 September 2010) establishing rules for the use of force by the armed forces in national territory

 - Legislative Decree 1096 (1 September 2010) amending some articles of Law 29182 on the organization and functions of the military and police courts.

2. Training courses and seminars on international humanitarian law

2.1. "Miguel Grau" course on international humanitarian law

Since 2006, the Peruvian National Commission for the Study and Implementation of International Humanitarian Law (CONADIH) has been holding the "Miguel Grau" course on international humanitarian law, which aims to strengthen training in and support for the principles and foundations of international humanitarian law in Peru, stimulating dialogue and debate among various actors to achieve this objective.

The fifth "Miguel Grau" course was held from 17 to 21 May 2010, with "The use of force" as its central theme. Various social actors attended the course, including officials from State institutions, members of the armed forces and national police, judges, prosecutors, members of civil society and representatives of the Office of the Ombudsman.

The course was taught by Peruvian and international experts with broad experience and recognized professional expertise in the topic under consideration.

2.2. Workshop for journalists and other media professionals

On 28 August 2010, CONADIH organized a workshop for journalists and other media professionals on the theme "Basic concepts for media coverage of situations of violence". The aim of this workshop was to provide basic tools within the framework of international humanitarian law for media coverage of the various situations of violence that could arise.

2.3. Conference for judges and prosecutors

A conference entitled "Introduction and Basic Principles of International Humanitarian Law and the Jurisdictional Function", featuring a number of high-level speakers, was held on 3 September 2010 under the institutional cooperation agreement concluded between the Lima Bar Association and CONADIH.

2.4. Round tables on the fate of disappeared persons and their family members

CONADIH organized two round tables, the first in Huamanga (Ayacucho) on 5 November 2009 and the second in Lima on 25 November 2009, with the aim of (a) creating

a forum to facilitate information exchange and synergies among, exclusively, authorities, forensic experts and human rights experts, with regard to the remaining challenges faced in the search for people reported missing in the period 1980-2000, and (b) identifying the main difficulties encountered in the scope of activity of the authorities and/or experts working in the field, with a view to submitting this analysis to the main authorities responsible in order for them to take whatever action they deem necessary.

2.5. Seminar on the protection of individuals in situations of armed conflict

On 12 November 2009, CONADIH, in conjunction with the Regional Institute for Peace (IREPAZ) of Tingo María (department of Huánuco) organized a seminar on "The need to protect individuals in situations of armed conflict and other situations of internal violence".

3. Participation by Peru in events relating to international humanitarian law

**3.1. Special Meeting on International Humanitarian Law at the
Organization of American States (OAS)**

A Peruvian delegation attended the Special Meeting on International Humanitarian Law convened by the Committee on Juridical and Political Affairs of the Permanent Council of the Organization of American States on 29 January 2010.

The Meeting was entitled "Promotion of and Respect for International Humanitarian Law" and its final report (AG/RES. 2507 (XXXIX-O/09)) described the progress made by Peru in the area of international humanitarian law.

**3.2. International Conference of National Committees on International
Humanitarian Law of Latin America and the Caribbean, held in Mexico**

A conference of all the National Committees on International Humanitarian Law of Latin America and the Caribbean, convened by the International Committee of the Red Cross (ICRC), took place in Mexico City from 30 June to 2 July 2010. CONADIH

represented Peru at this conference and presented the progress made by the Peruvian State in implementing international humanitarian law, as well as the challenges still faced, including that of ensuring that the agreements adopted at plenary meetings of CONADIH are binding on all its component sectors. It also presented the work that it has been carrying out, since 2008, on the use of force by members of the armed forces.

Lastly, CONADIH shared with the other National Committees of Latin American countries its experience in holding round tables, at both the national and the regional level, to address the issue of enforced disappearance from the four angles of prevention, investigation, search for human remains and support for affected families.

4. Participation in activities and initiatives relating to international humanitarian law

4.1. Initiative regarding regulation of the use of force and protection of individuals in internal disturbances and other situations of violence

CONADIH has helped to promote respect for and implementation of principles and standards relevant to the regulation of the use of force and protection of individuals in internal disturbances and other situations of internal violence that are below the threshold for the application of international humanitarian law.

Since 2007 it has been working on two projects relating to:

- Use of force by members of the armed forces in areas where a state of emergency has been declared

- Use of force by members of the armed forces in areas where a state of emergency has not been declared.

Following the enactment of Law 29166, "Law establishing rules for the use of force by members of the armed forces in national territory" and its implementing resolutions, CONADIH has been working since November 2008 on the technical and legal aspects of the Law and has established a sub-working group on the use of force, comprising the

Ministry of Defence, the Ministry of Foreign Affairs, the National Human Rights

Coordinator, the International Committee of the Red Cross, and a representative of the

Military and Police Supreme Court.

On 15 June 2009, after several working sessions, the sub-working group on the use of force approved the final version of a document entitled: "Executive Summary - Considerations and technical recommendations on Law 29166, Law establishing rules for the use of force by members of the armed forces in national territory, and its implementing resolutions".

That document sets out the legal and technical shortcomings of Law 29166, in relation to the use of force by the State and the protection of individuals in situations that are below the threshold of application for armed conflict and in situations of armed conflict, with respect to the provisions of the relevant instruments and standards under international human rights law and international humanitarian law. Two technical considerations, for

example, which show where Law 29166 diverges from international obligations, are the scope of the Law and the terminology it uses.

On 9 September 2009, the Constitutional Court ruled on the action of unconstitutionality against Law 29166, which establishes regulations supplementary to Law 28222 and the rules for the use of force by the Peruvian armed forces in national territory.

As recommended by the Constitutional Court and drawing on the proposals set out in the Executive Summary of the sub-working group on the use of force, two legislative proposals regulating the use of force by members of the armed forces were drafted, one for areas where a state of emergency has been declared within national territory and the other for areas where such a state of emergency has not been declared in national territory.

The aim of this proposal is to clarify the scope of the two bodies of law regulating the use of force, namely international human rights law and international humanitarian law and the appropriate terminology for each type of situation. The legislative proposals were

presented at a plenary meeting of CONADIH and were approved by a majority of its members on 16 March 2010.

Legislation establishing rules on the use of force by the armed forces in national territory has now been enacted by means of Legislative Decree 1095, published on 1 September 2010. This legislation has been developed in the context of the powers granted by the Congress of the Republic to the Executive Branch, on the basis of Law 29548, published on 3 July 2010.

4.2. Proposal to include war crimes within the Penal Code

A Penal Code reform process was begun in 2002, when the Special Committee for Review of the Penal Code was established; it also involved bringing Peruvian domestic legislation into line with international human rights and international humanitarian law instruments.

On 6 February 2006, the Special Committee for Review of the Penal Code submitted its legislative proposal, approved in a plenary meeting, to the Justice and Human Rights Commission of the Peruvian Congress (for the 2001-2006 legislative session). Part of this proposal was that a third book "Offences against international human rights law and international humanitarian law" should be included within the Penal Code. This initiative was registered as Bill No. 14659/2005-CR; however, upon expiry of the legislative session, the bill could not be considered in full by the Justice and Human Rights Commission.

In 2007, the proposal was resubmitted by means of Bill No. 1707/2007-CR. On 25 November 2008, it was subjected to a preliminary opinion by the Justice and Human Rights Commission, as a result of which it was considerably shortened as compared with its initial version. The preliminary opinion was approved by the said Commission on 7 April 2009; however, that approval was then reconsidered by some members of the Commission and was rejected on the second vote.

CONADIH has contributed to and monitored this reform process and will continue to work towards achieving the inclusion of offences against international human rights law and international humanitarian law within the Peruvian Penal Code. On 1 June 2010, at an extraordinary meeting of the National Human Rights Council, the Minister of Justice urged the Justice Commission of the Peruvian Congress to discuss Bill No. 1707/2007, with a view to criminalizing offences against international human rights law and international humanitarian law.

When the Peruvian State took part in the Review Conference of the Rome Statute, in Kampala, Uganda, a cross-cutting working group was established, consisting of CONADIH and a number of units within the Ministry of Foreign Affairs, including the Directorate General of Legal Affairs, the Legal Advisory Office, the Department of International Security and Disarmament, and the Directorate General of Human Rights, which was responsible for coordination. A document was prepared following several working sessions,

the contents of which are based on an analysis of the Rome Statute amendment proposals regarding the crime of aggression and war crimes.

4.3. Proposal regarding use and protection of the emblem

With regard to the adoption of a third emblem of the International Red Cross and Red Crescent Movement, a draft law entitled "Draft Law on the Use and Protection of the Emblem and Names of the Red Cross, the Red Crescent and the Third Protocol Emblem" has been prepared in the context of the work of CONADIH.

4.4. Proposal regarding the forced recruitment of children

CONADIH has drafted a legislative proposal on the recruitment or conscription of minors which includes the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict¹; this instrument establishes the requirement for States Parties to take all measures to ensure that persons who have not attained the age of 18 years do not take part in armed hostilities. It also

¹ Adopted by General Assembly resolution 54/263 on 25 May 2000.

incorporates the recommendations of Convention No. 182 of the International Labour

Organization concerning the Prohibition and Immediate Action for the Elimination of the

Worst Forms of Child Labour.

In this regard, the legislative proposal involves amendment of the Code of Children and Adolescents and the Penal Code in order to penalize the recruitment or conscription of persons below 18 years of age with a view to incorporating them in law enforcement agencies, armed groups or private security companies.

4.5. National Plan for the Dissemination and Teaching of International Humanitarian Law

With a view to the implementation of Law 27741, which establishes an education policy with respect to human rights and international humanitarian law and creates a national plan for the dissemination and teaching of those concepts, CONADIH, in

conjunction with the National Human Rights Council, is working on the design of a

National Plan for Education on Human Rights and International Humanitarian Law.

This work aims to ensure that education on human rights and international humanitarian law is provided at all levels of the education system, including primary, secondary and higher education, as well as among all civilian and military personnel.

4.6. Review Conference of the Rome Statute of the International Criminal

Court: focal point for pledges

Within the context of the preparatory activities for the Review Conference of the Rome Statute of the International Criminal Court, Peru, together with the Netherlands, was appointed by the Bureau of the Assembly of State Parties as the focal point for the process of pledges. Through this process, States, individually and collectively, were able to reaffirm their commitment to the fight against impunity.

5. Signature, accession or ratification of treaties on international

humanitarian law by Peru

No.	International human rights instruments	Ratification
1	Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Convention I)	15/02/1956
2	Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Convention II)*	15/02/1956
3	Geneva Convention relative to the Treatment of Prisoners of War (Convention III)	15/02/1956

* Translator's note: The Spanish repeats the title of Convention I; however I assume they meant to say "Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea". Conventions I to IV were in fact ratified by Peru on 15/03/1956.

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- 4** Geneva Convention relative to the Protection of 15/02/1956
Civilian Persons in Time of War (Convention IV)
- 5** Protocol Additional to the Geneva Conventions of 14/07/1989
12 August 1949, and Relating to the Protection of
Victims of International Armed Conflicts
(Protocol I)
- 6** Protocol Additional to the Geneva Conventions of 14/07/1989
12 August 1949 and Relating to the Protection of
Victims of Non-International Armed Conflicts
(Protocol II)
- 7** Convention on the Rights of the Child, 20 04/09/1990
November 1989

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- 8** Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, New York, 25 May 2000 08/05/2002
- 9** Rome Statute of the International Criminal Court, 17 July 1998 10/11/2001
- 10** Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954 21/07/1989
- 11** Protocol for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954 21/07/1989
- 12** Second Protocol to The Hague Convention of 24/05/2005

1954 for the Protection of Cultural Property in the

Event of Armed Conflict, The Hague, 14 May

1999**

13 Protocol for the Prohibition of the Use in War of 13/08/1985

Asphyxiating, Poisonous or Other Gases, and of

Bacteriological Methods of Warfare, Geneva, 17

June 1925

14 Convention on the Prohibition of the 05/06/1985

Development, Production and Stockpiling of

Bacteriological (Biological) and Toxin Weapons

and on their Destruction. Opened for signature at

London, Moscow and Washington: 10 April

** Translator's note: The correct date is 26 March 1999.

1972.

15 Convention on Prohibitions or Restrictions on the 03/07/1997

Use of Certain Conventional Weapons Which

May Be Deemed to Be Excessively Injurious or to

Have Indiscriminate Effects

16 Protocol on Non-Detectable Fragments (Protocol 03/07/1997

I)

17 Protocol on Prohibitions or Restrictions on the 03/07/1997

Use of Incendiary Weapons (Protocol III)

18 Protocol on Blinding Laser Weapons (Protocol 03/07/1997

IV)

19 Amended Protocol on Prohibitions or Restrictions 03/07/1997

on the Use of Mines, Booby-Traps and Other

Devices (Protocol II as amended on 3 May 1996)

20 Protocol on Explosive Remnants of War (Protocol 29/05/2009

V)

21 Convention on the Prohibition of the 20/07/1995

Development, Production, Stockpiling and Use of

Chemical Weapons and on their Destruction,

Paris, 13 January 1993.

22. Convention on the Prohibition of the Use, 17/06/1998

Stockpiling, Production and Transfer of Anti-

Personnel Mines and on their Destruction, Oslo,

18 September 1997.

