

PERU

High altitude prison puts prisoners' health at risk

Amnesty International is concerned that prisoners held in Peru's newly built Challapalca Prison are being subjected to conditions which may amount to cruel, inhuman and degrading treatment. Specifically, the organization is concerned that the prisoners' health could be put at risk because of the prison's altitude above sea level. According to official sources, Challapalca Prison is located between 4,600 and 5,000 metres above sea level.

Amnesty International's fears are based on reports by experts in high altitude medicine. These medical experts claim that persons transferred from sea level to an altitude in excess of 4,500 metres, and who are then exposed to such altitudes for a long period of time, could have their health put at risk.

Amnesty International is also concerned that the relatively inaccessible location of Challapalca Prison seriously limits the right of prisoners to maintain effective contact with the outside world, including with relatives, lawyers and doctors. Challapalca Prison is located in a region of Peru's *altiplano*, highlands, in the southern department of Puno, near the frontier with Bolivia. The prison can be reached by car or bus but is several hours away from the nearest city.

Amnesty International's position on the ill-treatment of prisoners

Amnesty International is an independent non-governmental organisation (NGO) working for the protection of human rights as enshrined in the United Nations (UN) Universal Declaration of Human Rights. The focus of the organisation's work is determined by its mandate and a set of policies designed to uphold the Universal Declaration of Human Rights and human rights standards derived from it.

Included in Amnesty International's work is the condemnation and prevention of cruel, inhuman or degrading treatment of prisoners. The term "cruel, inhuman or degrading treatment" refers generally to any harsh treatment that could damage a prisoner's physical or mental health, or any punishment meant to cause suffering. All such treatments or punishments are clearly prohibited in international law. Amnesty International uses the term to describe both acts and omissions that cause prisoners to suffer in violation of international standards. These include, *inter alia*, treatment that is a consequence of neglect, where the conditions of confinement and denial of basic needs cause prisoners acute misery. Whatever the State's reason for detention or restriction, Amnesty International opposes ill-treatment unconditionally.

Background

In 1995, Peru's Ministry of Justice, responsible for the country's civilian prisons, published its prisons' policy. The report contained information about the building of a new prison to be known as the *Establecimiento Penitenciario de Régimen Especial de Challapalca*, Challapalca Special Regime Penitentiary Establishment. The report indicated that the Challapalca Prison was being built "a 5,000 metros sobre el nivel del mar", "at 5,000 metres above sea level", within the perimeter of a military base, and had been designed to take a maximum of 40 prisoners.¹

In August 1997 Challapalca Prison became operational with the admission of 51 prisoners accused of common crimes. According to a Peruvian penitentiary official, Challapalca Prison is designed for prisoners who are categorized as "*de difícil readaptación*", "difficult to rehabilitate", and posed a threat to the security and orderly running of the prisons from which they were transferred.²

Amnesty International recognizes that the Peruvian authorities have a duty to maintain order and security within its prisons and to apply special measures to those prisoners who undermine that order and security. The organization also recognizes that many of the crimes with which these prisoners are associated, especially crimes of violence, are reprehensible. However, Amnesty International believes that certain minimum human rights standards for the protection of prisoners must at all times and in all places be observed, no matter how serious or reprehensible the behaviour or crimes of prisoners. These standards include the prohibition of torture and cruel, inhuman and degrading treatment of prisoners.

The altitude of Challapalca Prison and its effects on prisoners' health

The prison's altitude above sea level

Amnesty International has received conflicting information, from both official and non-official sources, as to the precise altitude above sea level of Challapalca Prison.

¹ Ministry of Justice, National Penitentiary Institute, *Política Penitenciaria en el Perú: Diagnóstico de la Realidad Carcelaria Coordinadas para la Creación de un Sistema Penitenciario*, Lima, 1995. The section on Challapalca Prison is on page 52 of the report.

² National Penitentiary Institute, *OFICIO No. 933.97.INPE7DGT.D.*, Lima, 16 July 1997.

The organization has had access to three official sources which make reference to the prison's altitude. In 1995, the Ministry of Justice claimed Challapalca Prison to be located at "5,000 metres above sea level".³ In June 1997, Peru's *Defensoría del Pueblo*, Ombudsman's Office, issued a press release about Challapalca Prison in which it made reference to the prison being located at "4,600 metres above sea level", "4,600 metros sobre el nivel del mar".⁴ In July 1997, Peru's *Instituto Nacional Penitenciario* (INPE), National Penitentiary Institute, also claimed the prison to be at an altitude of 4,600 metres.⁵

The *Coordinadora Nacional de Derechos Humanos* (CNDDHH), an NGO representing 47 human rights groups in Peru, has also made reference to the altitude of Challapalca Prison.⁶ In July 1997 a CNDDHH delegation visited the prison but was refused access to the prison buildings. The delegation noted that a board outside the military base inside which the prison is located, announced the base's altitude as 5,020 metres. The commander of the army base, on being asked by the delegation to comment on information that the base was at this altitude, replied that the altitude referred to the summit of a nearby peak and that in fact the base was located at 4,800 metres above sea level. On the basis of an altimeter reading taken by the delegation, the CNDDHH concluded that Challapalca Prison was located at 4,600 metres above sea level.

Confinement at high altitudes and its medical effects

Amnesty International has obtained information from internationally recognized experts in high altitude medicine about the possible effects on health of persons who are exposed to high altitudes for a long period of time.

In June 1997, Peru's *Instituto de Investigaciones de la Altura* (IIA), High Altitude Research Institute, part of the *Universidad Peruana Cayetano Heredia*, Cayetano Heredia Peruvian University, prepared a report entitled "*Informe Sobre la Aclimatización del Hombre a Alturas Mayores de 4,500 M.*", "Report on the Acclimatization of Man at Altitudes in Excess of 4,500 M.". The report was submitted to

³ Ibid., page 52.

⁴ Ombudsman's Office, *Defensoría del Pueblo Solicita Revisar Decisión Sobre Penal de Challapalca*, *Nota de Prensa*, Lima, 6 June 1997

⁵ National Penitentiary Institute, *OFICIO No. 933.97.INPE7DGT.D.*, op.cit.

⁶ National Coordinating Committee for Human Rights, *Informe de la Misión de la Coordinadora Nacional de Derechos Humanos al Penal de Challapalca y La Capilla (Puno)*, *Carta Circular 40*, Lima, July 1997.

the INPE by Dr Carlos Monge Casinelli and Dr Fabiola León-Velvarde, members of the IIA and internationally recognized experts in high-altitude medicine.

In the report, Drs Monge and León-Velvarde, both of whom are also linked to the International Society for Mountain Medicine (see below), outlined the possible adverse effects on health for persons transferred from sea-level to high altitudes for a long period of time. In particular, they made reference to Acute Mountain Sickness or *Soroche* (*Mal de Montaña Agudo o Soroche*) and Chronic Mountain Sickness or Monge's Disease (*Mal de Montaña Crónico o Enfermedad de Monge*), two conditions associated with exposure to high altitudes. According to Drs Monge and León-Velvarde, Acute Mountain Sickness can lead to "pulmonary edema and/or cerebral edema", "*edema pulmonar y/o edema cerebral*". In the case of Chronic Mountain Sickness, this affliction is characterized by "the presence of neuro-psychological symptoms such as lack of concentration, difficulties with sleeping, headaches, buzzing in the ears, fatigue, personality changes, loss of memory, and certain difficulties in walking. Other problems may make themselves felt, such as in the locomotive, circulatory, digestive and endocrinal systems, which on being affected could substantially reduce the physical and mental capacities of the person affected." ⁷

Drs Monge and León-Velarde recommended to the INPE, *inter alia*, that "given the importance of health problems caused by high altitude, we believe that the [Peruvian] penitentiary authorities ought to disseminate information amongst its medical and para-medical staff in general about acute and chronic mountain sickness as a health problem which afflicts any person who lives for a considerable time at high altitudes. Doctors in contact with persons transferred to a high altitude ought to be adequately trained to recognize the appearance of symptoms, signs and laboratory findings associated with high altitudes [...]." ⁸

⁷ The translation by Amnesty International is based on the Spanish text which reads: "*la presencia de síntomas neuropsíquicos como la falta de concentración mental, dificultad para dormir bien, dolores de cabeza, zumbidos de oídos, fatiga, alteraciones de carácter y de la memoria y ciertas dificultades del movimiento. También pueden presentarse problemas a otros niveles, como en los sistemas locomotor, circulatorio, digestivo y endocrino que al verse comprometidos contribuyen a reducir sustancialmente el rendimiento físico y mental de las personas afectadas.*"

⁸ The translation by Amnesty International is taken from the Spanish text which reads: "*Dada la importancia que tienen los problemas de salud que causa la altura, creemos que debe de proporcionarse el reconocimiento, por parte de las autoridades [peruanas] de los penales, y de su personal médico y paramédico en general, del mal de montaña agudo y crónico como un problema de salud para toda persona que habite durante un tiempo considerable en las grandes alturas. Deben entrenarse a los médicos que estarían en contacto con las personas trasladadas a la altura para que estén alerta a la aparición de los síntomas, signos y hallazgos de laboratorio de cualquier trastorno de salud asociado a la altura [...].*"

In addition to obtaining the above report, Amnesty International sought the medical opinion of experts linked to the International Society for Mountain Medicine (ISMM). In August 1997 Dr Jean-Paul Richalet, then president of the ISMM, wrote to Amnesty International attaching a letter he addressed to Dr Alfredo Quispe Correa, Peru's Minister of Justice. In the letter Dr Richalet stated, *inter alia*, that "Living above 5,000 metres⁹ has very adverse effects on the health of persons staying at that altitude, including the risk of death. Acute exposure to such a high altitude may induce severe diseases such as pulmonary or cerebral edema, as well as a decompensation of pre-existing diseases such as coronary or pulmonary insufficiency. The overall mortality could be as high as 2% in these adverse conditions. There is a clear difference - from a medical point of view - between altitudes around 4,500 metres where thousands of people can live without major problems and 5,000 metres where the lack of oxygen has been proved to provoke a lot of adverse effects on the organism of a great proportion of humans. It is thus probable that quite a great number of people (prisoners or guardians) brought to this altitude won't tolerate it very long and will have to be evacuated rapidly at lower altitudes for safety reasons."¹⁰

The geographical isolation of Challapalca Prison

Amnesty International has also received information about the geographical isolation of Challapalca Prison. According to the CNDDHH's report and a map studied by Amnesty International, Challapalca Prison is located in a relatively inaccessible part of the Andean *altiplano*, on the border between the departments of Puno and Tacna and near the frontier with Bolivia. This is a barren, sparsely populated and inhospitable region of Peru.

The prison is located approximately 170 kilometres from Ilave to the north-east and 100 kilometres from Tacna to the south-west, both towns from where public road transport may be obtained to reach the prison. According to the CNDDHH, the once-per-day public bus service between Ilave and Tacna takes several hours to reach the prison and arrives there around midnight. Effectively, for visitors travelling to the prison by bus, this means waiting several hours before gaining access to the prison.

⁹ The reference to "above 5,000 metres" by Dr Jean-Paul Richalet is due to initial but uncorroborated information received by him that Challapalca Prison was thought to be located at 5,200 metres above sea level.

¹⁰ Letter by Dr Jean-Paul Richalet, president of the ISMM, to Dr Alfredo Quispe Correa, Minister of Justice, dated 20 August 1997.

Alternatively, the prison can be reached by hired taxi. Temperatures in the area are reported to rarely rise above 5° Celsius and are known to reach as low as -20° Celsius.

On 2 February 1998 Amnesty International met with Peru's Ombudsman, Dr Jorge Santistevan, during his visit to England. Dr Santistevan informed the organization that arrangements had been made by the authorities for an INPE bus to transport prisoners' relatives from Tacna to Challapalca Prison and back on a once-per-month basis.

Challapalca Prison: action by human rights defenders and the authorities' response

During the first half of 1997, in anticipation of the transfer of prisoners to Challapalca Prison and given the medical information available about the possible adverse effects on the health of persons living at high altitudes, numerous appeals were made to the Peruvian authorities requesting a review of the decision to bring the prison into operation.

For example, in April 1997 the CNDDHH publicly expressed concern that 110 prisoners had been transferred from three prisons at sea level in Lima, the capital, to a prison in Juliaca, department of Puno, as an interim measure prior to their eventual transfer to Challapalca Prison. In June, Peru's *Defensoría del Pueblo*, Ombudsman's Office, published a press release which requested the authorities review the decision to transfer prisoners to Challapalca Prison.¹¹ In July the CNDDHH also published a press release making a similar call on the authorities.¹² Also in July, the CNDDHH wrote to the Minister of Justice pointing out that to bring Challapalca Prison into operation would contravene international human rights standards, including the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.¹³ The CNDDHH reminded the Minister of Justice that, according to Peru's *Código de Ejecución Penal de 1991*, 1991 Code for the Application of Criminal Punishment, *el "Sistema Penitenciario [del Perú] acoge las disposiciones, conclusiones y recomendaciones de las Naciones Unidas para la prevención del delito y el tratamiento del delincuente"*, the "Penitentiary System [of Peru] incorporates the United Nations' dispositions, conclusions and recommendations for the prevention of crime and the treatment of the criminal".¹⁴ Again

¹¹ Ombudsman's Office, op. cit.

¹² National Coordinating Committee for Human Rights, *Nota de Prensa*, Lima, July 1997.

¹³ Letter from the CNDDHH to the Minister of Justice, 11 July 1997.

¹⁴ Ibid.

in July, Amnesty International appealed to Peru's Minister of Justice not to transfer prisoners to Challapalca Prison without previously seeking comprehensive information about the possible adverse effects on the health of inmates should they be transferred there.¹⁵

The appeals went unheeded. Indeed, on 16 July the INPE's *Director General de Tratamiento*, Director General of Treatment, stated in a communication about Challapalca Prison directed to the president of the INPE that "no se está violando ninguna Norma Internacional [de protección de los Derechos Humanos]", "no International Standard [for the protection of human rights] is being violated".¹⁶ The Director General also stated that prisoners in Challapalca Prison would remain there for "un promedio de UN (01) año", "an average of ONE (01) year", and that the INPE and the *Universidad Peruana Cayetano Heredia* had signed an agreement to regularly monitor the health of the prisoners.¹⁷ Amnesty International has not had access to this agreement and its terms of reference, and does not know whether the monitoring project has been implemented.

It was in this context that, on 8 and 9 August 1997, the authorities brought Challapalca Prison into operation by transferring to it a first batch of 51 prisoners.¹⁸ In the wake of the transfer, Amnesty International expressed its dismay at the decision. The organization requested that the authorities return the prisoners to other prisons and called for any further transfers to Challapalca Prison to be suspended, until such time as the results of a full and independent inquiry into the consequences of high altitude imprisonment for the health of prisoners is made public.¹⁹

Also in the wake of the transfer, relatives of some of the prisoners in Challapalca Prison filed an *habeas corpus* petition before a judge in Lima, arguing that the president of the INPE, by having approved the transfer, was jeopardising the physical, psychological and moral integrity of the prisoners, in contravention of standards for the

¹⁵ See Amnesty International Urgent Action (UA) 224/97, AI Index: AMR 46/28/97, 21 July 1997.

¹⁶ National Penitentiary Institute, *OFICIO No. 933.97.INPE7DGT.D.*, op.cit.

¹⁷ Ibid.

¹⁸ According to Peruvian press reports, in October 1997 a further 27 prisoners were transferred to Challapalca Prison.

¹⁹ See Amnesty International follow-up to UA 224/97, AI Index: AMR 46/33/97, 18 August 1997.

protection of human rights enshrined in Peru's Constitution and laws, and in international human rights standards. The petition argued that the prisoners should be returned to a situation where the *status quo ante* prevailed, namely to the prisons they found themselves in prior to their rights having been violated. On 13 August 1997 the judge rejected the petition, ruling that the president of the INPE had acted in accordance with his duty to classify prisoners and transfer them to prisons under his authority. The petitioners appealed the ruling before the *Corte Suprema de Justicia*, Lima High Court, but the appeal was rejected at the end of August. The petitioners subsequently referred the issue to the *Tribunal Constitucional*, Constitutional Tribunal. By the end of January 1998 the Constitutional Tribunal had not issued a ruling on the issue.

Conclusions and recommendations

Amnesty International believes that conditions in the Challapalca Prison may amount to cruel, inhumane and degrading treatment, in contravention of articles 7 and 10.1 of the UN International Covenant on Civil and Political Rights; articles 5.1 and 5.2 of the American Convention on Human Rights; the UN Standard Minimum Rules for the Treatment of Prisoners; and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Amnesty International recommends to the Peruvian authorities:

1. That an independent commission made up of experts in high altitude medicine and in human rights standards review the conditions prevailing in Challapalca Prison, including their effects on the prisoners' health and their right to maintain effective contact with the outside world;
2. That, pending publication of the commission's findings, no further prisoners be transferred to Challapalca Prison and all prisoners currently held there be relocated to other prisons;
3. That the terms of reference of the agreement signed between Peru's National Penitentiary Institute and the Cayetano Heredia Peruvian University to monitor the health of prisoners transferred to Challapalca Prison be made public;
4. That any preliminary results arising from the monitoring of the health of prisoners transferred to Challapalca Prison be made public;
5. That the necessary steps be taken to ensure that independent experts promptly establish the precise altitude above sea level of Challapalca Prison.