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OPEN LETTER TO UN SPECIAL RAPORTEURS ON ACTIONS BY PERUVIAN AUTHORITIES IN RESPOND TO PROTESTS

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To the above Mandate Holders of the United Nations Special Procedures:

Amnesty International has been monitoring the situation in Peru since widespread protests broke out in December 2022 and January 2023, resulting in the death of 49 protestors – including 11 people during roadblocks – and grave injuries to several hundred more. This letter follows up on previous research and provides details on actions by Peruvian authorities during the month of July 2023 in response to protests that reiterated demands derived from the political crisis of December.

The organization is concerned that Peru continues to undermine the right to peacefully protest through official responses that fail to meet international human rights law and standards. Protests occurred on various days across the month of July, in the capital Lima and several other cities and towns. Even though the repression by security forces during these most recent protests did not reach the level seen in December and January, the widespread use of unnecessary or excessive force as well as other measures undermining the rights to peaceful assembly and freedom of expression remain a cause for concern. Below we highlight several issues that merit special attention:

1. Stigmatization of protestors as “terrorists”

A national day of protest was announced for 19 July and several delegations from social movements around the country mobilized to travel to the capital Lima for a public march. The day prior to the protests, President Dina Boluarte made an address to the nation in which she declared:

“We don’t understand why they [protestors] once again start waving their flags of war and announce their arrival in Lima, from the voices of *Vraem* [a part of the country traditionally associated with the former internal armed conflict and groups considered by authorities to be terrorists], wanting to take over the country. That is a threat to democracy and the rule of law, institutionality, and we as a democratic government are not going to permit or accept this.”¹

Amnesty International documented the repeated stigmatization of protests on the part of authorities in its May 2023 report [“Lethal racism: extrajudicial executions and unlawful use of force by Peru’s security forces”](#). This stigmatization was noted by your mandates in a communication to Peruvian authorities in February 2023. The most recent statements from the President and the cabinet ministers did not distance themselves from such a discourse. The above speech from the President was accompanied by a series of official statements in days prior to protests that continued the tendency observed by Amnesty International earlier in the year of stigmatizing demonstrators as violent

¹ “Entonces ahora no entendemos porque nuevamente atizan sus banderas de guerra y anuncian con llegar a Lima, desde Voces, desde el *Vraem*, queriendo tomar desde el centro a todo el país. Esa es una amenaza a la democracia, al estado de derecho, a la institucionalidad, y nosotros como gobierno democrático, no lo vamos a permitir ni aceptar.” Official speech of the Presidency of Peru, published on Twitter and Facebook Live Stream, 18 July 2023, available at:

<https://www.facebook.com/PresidenciaPeru/videos/1662587474210043> <https://www.facebook.com/PresidenciaPeru/videos/1662587474210043>

radicals and even as “terrorists” without providing credible evidence to support their statements.

2. Restriction of the right to peaceful assembly

As noted in the preliminary findings of the Special Rapporteur on the rights to peaceful assembly and of association following his recent visit to Peru,² in February 2023 the Municipality of Lima declared³ the historic centre of Lima as an “intangible zone” where protests and gatherings would be restricted, a measure clearly in breach of Article 21 of the International Covenant on Civil and Political Rights. Days prior to the marches of July, a judge based in Lima rejected a constitutional challenge that had been presented against this measure.⁴

Furthermore, on 13 July, days before the national march, the Municipality of Lima published new requirements⁵ for assemblies to be carried out on public streets. The new requirements called for any person carrying out activities in public roads or streets to request an official authorization 15 days prior to the event or face potential fines for not doing so. These requirements are excessive and contrary to both national and international standards. Peru’s constitution outlines in its Article 2.12 that protests in public spaces require previous notice to authorities but does not stipulate authorization schemes. This clause of the constitution was supported by a ruling of the Constitutional Court that in 2005 found in favour of social movements and specifically ruled that under no circumstances could authorities request prior authorization for public gatherings or assemblies in common spaces.⁶ For their part, the national protests of 19 July were widely announced by social movements and organizations days prior to the event.

Finally, in the days prior to the national march of 19 July, the Peruvian National Police (PNP) carried out a series of operations on the highways and entry routes to Lima, stopping vehicles, buses and various forms of transport in order to control the entry of persons into the capital. Police routinely stopped people and delegations of communities and activists to check their ID documents, without any apparent legal justification for these actions as per Article 205 of the Criminal Procedures Code, which outlines that police can only request to see a person’s identification documents for the prevention of a presumed crime.

3. Unnecessary or excessive use of force

According to figures compiled by the Human Rights Ombudsperson’s office, 17 people were wounded during protests that occurred between 19 and 29 July. Of these 17 people, 14 were private individuals and three were policemen. The information gathered by Amnesty International, which includes media and audio-visual material, as well as interviews of eyewitnesses and people wounded, suggests that police relied on an unnecessary or excessive use of force in response to protests that were overwhelmingly peaceful in nature.

According to eyewitnesses interviewed by Amnesty International, police made use of several types of less lethal weapons, including what seems to be hand-held chemical irritants that emit a red coloured smoke and irritate the eyes, batons, tear gas and rubber pellets. Below we offer further detail on certain less-lethal weapons used:

a) Unlawful use of teargas

Amnesty International documented excessive use of tear gas during protests on 19, 22, 28 and 29 July in the centre of Lima. International standards state that tear gas should only be used as a last resort in situations of generalized violence after all other means to contain the violence have proven futile. Despite this, on all dates reviewed, Peruvian police used tear gas in response to gatherings of people in public squares and streets who were not carrying out acts of violence. Videos and eyewitness testimony detail how tear gas was used in many cases to clear public plazas, and in the direction of protestors who were trying to disperse. A limited number of protestors tried to push police or use their hand-held signs to try and make their way through barriers of dozens of riot police that had blocked entrances to certain avenues. Even in the face of such actions by protestors, police use of tear gas was disproportionate. In one particularly excessive episode, police used tear gas on a small group of approximately 50 to 100 people in a public square on 29 July, who were made up of mostly family members holding signs of their loved ones, victims of possible extrajudicial executions by police documented by Amnesty International in the southern city of Juliaca on 9 January 2023. The use of tear gas was reckless, and testimony collected by Amnesty International suggests that it may have also affected bystanders and even children passing through the main streets of Lima.

² End of Mission Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Clément Nyaletsossi Voulé, on his visit to Peru, 8-17 May 2023

³ Acuerdo de Concejo N.º 026 de fecha 10 de febrero de 2023

⁴ Corte Superior de Justicia de Lima, Expediente 01149-2023-0-1801-JR-DC-07. Sentencia de 7 de julio de 2023.

⁵ Twitter. Municipality of Lima, 13 July 2023, available at: <https://twitter.com/MuniLima/status/1679583181958258689>

⁶ Tribunal Constitucional, Exp. No. 4677-2004-PA-TC Lima. Confederación General de Trabajadores del Perú.

Information collected by Amnesty International suggests that in several of the protests police fired tear gas at angles considered dangerous and therefore unlawful under international standards. Several videos and testimony suggest police in many cases fired directly at individuals, an extremely dangerous, unlawful practice, which risks serious injury or even death from impact trauma.⁷

b) Unlawful use of kinetic impact projectiles – rubber bullets

The OHCHR Guidance clearly state that rubber bullets should only be used in extremely limited circumstances with the aim of immobilizing a violent individual that could pose a threat of injury to a law enforcement official or a member of the public.⁸ The OHCHR Guidance also states that multiple projectiles are inaccurate and “in general, their use cannot comply with the principles of necessity and proportionality”.⁹ Nevertheless, multiple eyewitness testimony and testimony from wounded people highlighted the reckless use of rubber pellets, often at a short range. Several people wounded by rubber pellets were journalists, who presented wounds in the groin area, legs. In one case, Amnesty International also received information about a journalist who was wounded after being struck in the face by a rubber bullet. This is extremely concerning given that rubber bullets may result in serious injury or even death if directed at the face.¹⁰ Another journalist told Amnesty International that police fired directly at him at a time when no one else was standing near him, suggesting that he was specifically targeted. Although Amnesty International has not been able to conduct a full analysis of the possible munition used in the protests, various photos of wounds from rubber bullets reviewed by the organization, as well as testimony from people injured, would suggest that the projectiles used may have been multiple in nature. This is extremely concerning given that multiple projectiles are inherently inaccurate, risk injury to sensitive parts of the body such as eyes, often strike bystanders, and should never be used for law enforcement.¹¹

c) Used of police batons and physical force

Amnesty International documented excessive use of force by police affecting the physical integrity of peaceful protestors and journalists. One journalist told the organization that police hit him in the face and pushed him with a baton. Several other sources as well as video material point to police forcefully shoving indigenous women protesting peacefully in a public plaza. Testimonies of journalists detailed how police at times seized their cameras or tried to throw them to the ground. In addition, information gathered suggests that police may also have physically pushed and forced medics and volunteer services.

Finally, human rights observers who witnessed the protests told Amnesty International how some police were carrying batons that appear to be unregulated under domestic standards. These particular batons, according to material collected by human rights observers, have a large hook-like shape on the end of the baton and can be used to forcibly pull a person and remove them from an area. Amnesty international wishes to alert mandate holders to this implement, given the possibility that these batons could be used for illegitimate coercive means and also could injure sensitive areas of the body, such as the spine, kidneys, abdomen and throat.¹²

4) Restriction of the right to freedom of expression and the work of journalists

In March, the Interior Ministry published a new Protocol for the Safety of journalists during protests¹³ which failed to consider critiques such as those of the national human rights ombudsman¹⁴ among others. Of particular concern are requirements akin to restrictive accreditation schemes which have been questioned by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. In this respect, the protocol makes the national police the primary actor responsible for guiding safety and calls on journalists to be accredited with the College of Journalists, an affiliation-based body of which not all independent journalists in the country are members. In addition, the protocol designates that journalists and reporters are advised to locate themselves in certain positions and locations in protests as advised by police as an “appropriate location” in order to receive police protection and benefit from safety in protests.

The recent protests in July saw repeated police harassment of journalists, in apparent application of the above-mentioned protocol. Besides the multiple journalists wounded, as described above, several journalists reported being questioned and intimidated by police to show their accreditation ID with the College of Journalists. Police continued to do so despite the fact that journalists were clearly identified with their press credentials and in many cases carried other ID, for example from the National Association of Journalists (ANP). In several other cases, journalists reported receiving verbal threats from police.

7 OHCHR Guidance on Less-Lethal Weapons in law Enforcement. Section 7.3.6: “Irritant projectiles should generally not be fired at an individual. In any event, projectiles should not be fired at the head or face, owing to the risk of death or serious injury from impact trauma.”

8 OHCHR Guidance, section 7.5.2: “Kinetic impact projectiles should generally be used only in direct fire with the aim of striking the lower abdomen or legs of a violent individual and only with a view to addressing an imminent threat of injury to either a law enforcement official or a member of the public.”

9 OHCHR Guidance, section 7.5.6.

10 OHCHR Guidance 7.5.3 Targeting the face or head may result in skull fracture and brain injury, damage to the eyes, including permanent blindness, or even death. The firing of kinetic impact projectiles from the air or from an elevated position, such as during an assembly, is likely to increase their risk of striking protesters in the head.

11 UNODC, Resource book on the use of force and firearms in law enforcement, p. 94: “Weapons that fire multiple projectiles at the same time ... should never be used due to the risk of injury to bystanders.”

12 OHCHR Guidance, 7.1.5 Officials should avoid baton strikes to sensitive areas of the body, such as the head, neck and throat, spine, kidneys and abdomen.

13 Resolución Ministerial N.º 0277-2023-IN - Normas y documentos legales - Ministerio del Interior - Plataforma del Estado Peruano (www.gob.pe)

14 https://twitter.com/Defensoria_Peru/status/1631461080584028163?s=20

5) Allegations of arbitrary detentions

Amnesty International has received information on several detentions carried out during the days of the protests. The public prosecutor's office registered ten detentions carried out between 19 and 29 July in the context of protests and, according to information collected by human rights observers as well as the Inter American Commission of Human Rights, several of these detentions may have been carried out in an arbitrary manner by plain clothes police.¹⁵ According to the information collected, police detained one reporter and photographer after demanding their affiliation ID of the College of Journalists, after which they forcibly pushed, pulled and detained the individuals. According to the information collected by Amnesty International, all ten detainees were held in police stations and released in the days following the protests.

According to the information gathered, one of the persons detained had to spend several days in custody due to a request for pre-charge detention filed by the Prosecutor's Office for the crime of rioting. This request was dismissed days later by a judge because there was insufficient evidence for such a measure. These types of unfounded short-term arrests that are later thrown out by judges could generate an atmosphere of fear among those who wish to exercise their legitimate right to protest, due to the risk of being imprisoned.

We continue to follow the situation in Peru closely and raise issues related to human rights violations and look forward to your continued engagement and monitoring of Peru's compliance with international human rights law and standards. We would of course be pleased to provide any further information you might require.

¹⁵ Inter American Commission on Human Rights, 3 August 2023: CIDH y RELE: Perú debe respetar estándares de uso de la fuerza y libertad de expresión durante las protestas sociales (oas.org)