

Clarification Questions about the Twenty-Third Inter-American Human Rights Moot Court Competition of the Academy on Human Rights and Humanitarian Law

- 1. Paragraph 40 of the hypothetical case says that the State claims to have begun taking all of the actions on behalf of the victims and women in general. Are those actions the same as the ones discussed in paragraphs 19 (Zero Tolerance Policy on Gender-Based Violence - ZTPGBV) and 20 of the hypothetical case?**

Specifically, the State of Naira has taken the following actions:

Implementation of a Zero Tolerance Policy on Gender-Based Violence

Forthcoming establishment of a Gender-Based Violence Unit in the Office of the Public Prosecutor and in the judicial branch

Forthcoming mandatory training and education on gender-based violence for judges, prosecutors, and other public servants

Article 234-C.- Femicide

Any person who kills a woman because of her status as such, in any of the following contexts, will be punished by a term of imprisonment of not less than fifteen years:

1. Domestic violence;
2. Sexual coercion, intimidation, or harassment;
3. Abuse of authority, trust, or any other position or relationship that confers authority upon the perpetrator;
4. Any form of discrimination against the woman, regardless of whether there is or has been a spousal relationship or domestic partnership with the perpetrator;

The term of imprisonment will be not less than twenty-five years when any of the following aggravating circumstances are present:

1. The victim was a minor child;
2. The victim was pregnant;
3. The victim was under the care or responsibility of the perpetrator;

Yes. The State of Naira notified the other States Party to the Convention through the OAS General Secretary that it derogated from Articles 7, 8, and 25 of the ACHR during the declared state of emergency; in addition, it gave notice of the derogation of the rights to the inviolability of the home, freedom of movement, the right of assembly, and the right not to be arrested without a probable cause warrant from a judge or by police authorities .

11. What were the

See question 12.

27. Paragraph 28 mentions that the Quispe sisters, as very young girls, were “were held at the SMB on false accusations for a month.” What civilian or military proceedings were conducted to order their detention and their subsequent release?

Because rights were suspended in the State of Naira, arrests could take place without any proceedings.

With respect to the second question, see question 14.

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35. What, specifically, are the results indicators for the implementation of the Zero Tolerance Policy on Gender-Based Violence (ZTPGBV), the Gender-Based Violence Unit of the IB-TRC-3.5.4 (E)/P

the Unified Registry of Victims of Violence and number of women who have accessed reparations through the Administrative Program on Reparations and Gender)? (Paras. 19-21)

For the first part of the question, see question 35. The Administrative Program on Reparations and Gender is in the process of being implemented, and therefore the process of registering victims has not yet begun.

41. What is the extent of the disability of Ms. Monica Quispe?

Maria Elena Quispe has right-sided hemiplegia.

42. What were the “false accusations” made against the Quispe sisters which led to their detention?

The Quispe sisters were accused of being accomplices to the armed group and providing the group with information about the military base.

43. Paragraph [10] stipulates that there were notifications of Human Rights violations subsequent to the creation and operation of the Special Military Bases between 1980 and 1999. Whereas paragraph [30] provides that the acts of sexual violence relating to the Special Military Bases were never reported. Could this be clarified?

From 1970 to 1999, the women did not report the abuses committed by the members of the military because they had received death threats and threats of retaliation from the military. In addition, those women that did talk about what happened did not receive supports anfpove snfgfw-0.001 Tc 0.0016Ned by the

The complaint was filed in May 2014.

47. Is it possible to make factual assumptions about the case?

No.

48. With respect to the suspension of a sentence for an assault conviction, what does the Criminal Code of Naira say (requirements for granting, alternative measures for serving the sentence, criteria for determining the time of suspension), and for how long was Mr. Jorge Pérez's sentence suspended (paragraph 25 of the case)?

Article 65.- Requirements for granting probation

The judge may suspend the execution of the sentence, provided that the following requirements are met:

1. The defendant is sentenced to a term of imprisonment of not more than four years.
2. The nature and modality of the crime, as well as the procedural conduct and personality of the defendant, allow the judge to infer that he or she will not commit a new crime. The reasons for the authority's favorable prediction of the defendant's future conduct must be duly stated.
3. The defendant must not be a recidivist or habitual offender.

The suspension period is from one to three years.

The sentence imposed against Jorge Pérez was one year of suspended jail time; in other words, he was convicted of the offense of misdemeanor assault and battery but did not spend time in jail.

Mr. Pérez's sentence was not effective, meaning that he did not spend time in jail.

49. Do paragraphs 28 and 29 of the case deal exclusively with the statements that María and Mónica Quispe's gave in the interview with channel GTV?

Yes. The facts stated in those paragraphs are from the statements that Maria Elena and Mónica provided to the news outlet.

50. Were any men or children detained at the SMB in Warmi? If so, were they coerced into performing some kind of activity, like Mónica and María Elena were?

Yes, they were the victims of arbitrary arrest and forced labor. There were some cases of forced disappearances and extrajudicial executions. The female victims of forced labor, including Maria Elena, had to cook, do laundry, and serve the soldiers. They were also the victims of forced undressing, improper touching, attempted rape, and rape.

51. Did the attack that María Elena Quispe suffered result in any limitations in her daily activities?

Yes, fear of leaving home and going to work restricted her autonomy. Later, the right-sided hemiplegia placed a permanent physical limitation on her activities.

52. Did Maria Elena have the financial means to pay for an attorney? If not, did NAIRA provide any type of free legal advice after her first assault?

No, both Maria Elena and her sister Mónica live in a situation of poverty. Access to the judicial system of Naira is free, so it is possible to obtain legal advice free of charge. However, the police institutions

of the State of Naira do not have court-appointed lawyers on-site, and therefore Maria Elena did not get legal advice.

In contrast, the offices of the public prosecutors do have court-appointed lawyers who are at the service of complainants.

53. What was the complaint that Monica Quispe filed (¶ 26)?

The complaint filed by Mónica alleged that her sister was the victim of attempted femicide.

54. What is the penalty in Naira for the crime of attempted femicide?

See question 4.

55. What was the process in place for Warmi citizens to report crimes at the time Monica and Maria Elena were captives at the military base?

Because the Province of Warmi was under the military, political, and legal control of the soldiers, complaints had to be filed with the duty officer in charge of the SMB's criminal division.

56. With respect to paragraph 34 of the case, did women and specialized NGOs participate broadly in formulating the measures adopted by the State?

The only NGO that has taken on the defense of victims of sexual violence during the period of violence has been Killapura.

57. Does Naira's domestic legal system provide other criminal remedies that were not used by the petitioners? If so, what are they?

The only proceeding that could have been used by the NGO was used. ?

See question 10.

62. In relation to paragraph 10, how many investigations were opened by the State *ex officio*?

There is no systematized information on this matter.

63. In relation to paragraph 10, why were the *ex officio* investigations not successful?

See question 43.

64. In relation to paragraph 19, what percentage of the GDP does the “extraordinary budget allocation” specified for the implementation of the ZTPGBV represent?

It is 3% of the GDP.

65. What are the characteristics of the Truth Commission created by the Executive Branch (e.g., regulation, composition, mandate, duration, type of reparations it offers, etc.)?

The Commission consists of 10 representatives of the State and civil society. Five of them are men and five are women, meaning that there is gender parity. In addition, there are representatives of indigenous communities.

The Commission will dissolve once it presents its final report – which, as previously noted, is expected to be published in 2019. The reparations that it offers are administrative, and include measures of satisfaction, guarantees of non-repetition, rehabilitation measures, restitution measures, and monetary reparations.

The Commission’s mandate is to investigate the context and cases of human rights violations, with special emphasis on the cases of sexual violence that occurred during the 1970-1999 period.

66. What differences are there between the Administrative Program on Reparations and Gender, the Gender-Based Violence Unit, and the Special Fund for Reparations (amounts of reparations, procedures, possibility of litigation)?

No.

77. What was the nature and cond

Article 82.- Start of the Statute of Limitations Period

The statutes of limitations for criminal actions begin to run:

1. In the case of attempt,

See question 12.

93. On what specific dates (MM/DD/YYYY) were the following actions taken by the State of Naira:

- a. **Zero Tolerance Policy on Gender-Based Violence (ZTPGBV);**
- b. **Extraordinary budget allocation for the implementation of the ZTPGBV;**
- c. **Gender-Based Violence Unit;**
- d. **Review legislation on femicide, violence, discrimination, and issues of gender identity**

Zero Tolerance Policy on Gender-Based Violence (ZTPGBV): February 1, 2015

Extraordinary budget allocation for the implementation of the ZTPGBV: February 1, 2015

Gender-Based Violence Unit: not yet implemented

Review of legislation on femicide, violence, discrimination, and gender identity issues: in the implementation process

94. Which specific facts is Killapura's