

**Committee on the Elimination of  
Discrimination against Women  
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**Concluding comments of the Committee on the Elimination of  
Discrimination against Women: Peru**

**Second periodic report**

398. At its 275th meeting, on 27 January 1995, the Committee considered the second periodic report of Peru (CEDAW/C/13/Add.29).

399. In presenting the report, the representative underlined the importance that the Government of Peru attached to the implementation of the Convention, which it had ratified in 1982. She informed the Committee that she was presenting an updated version of the second periodic report, which had been submitted in 1991. The representative focused on the main features of Peruvian society, highlighting the wide differentiation existing between rural and urban areas, with specific laws for each, and the efforts to include these differences in the Constitution of 1993, including some ancient customs of the indigenous population. She highlighted the fact that terrorism, economic recession and hyperinflation had nearly led the country to a state of collapse, to which the Government had reacted with emergency measures for political stabilization and reconstruction of the country. The main measures taken included structural changes in the economy and in international economic relations, the promotion of human rights and democracy and the adoption of a new constitution adapted to the economic, political and social changes that had occurred during the past few years. She pointed out that the new Constitution was being implemented through the development of rules and institutions that would ensure its viability. Since 1993, a Programme for the Elimination of Poverty, financed from both national and international resources, was being implemented in the most affected areas of the country and with specific focus on education, health and justice.

400. The representative reported on the main current aspects of women's life in Peru. The public visibility of women was evident in the large number who participated in various levels of decision-making and as community leaders. This was explained by the high level of participation women have had during the past decade, as professional and community leaders, in actions for defence against violence and of providing for the basic needs of the people. She reported that the Government gave special importance to women's organizations and non-governmental organizations, for which it had created a law ensuring the support and financing of their activities. She informed the Committee that a Permanent Commission on Women's and Children's Rights had been created in the Ministry of Justice. This Commission, which has a coordinating function between the State and civil

society, develops and disseminates studies and promotes the defence of human rights for women and children as well as legislative changes, and coordinates and promotes actions regarding women and children in coordination with the executive, civil society and international organizations. It evaluates its activities and develops a platform of action for women. The Commission includes members from governmental institutions, the Church, the private sector and non-governmental organizations concerned with issues related to women and children.

401. She also pointed out that, as a result of terrorism, there had been a growing number of women heads of households. Equality in access to education had nearly been reached and girls represented 50 and 40 per cent of students enrolled in primary and secondary levels of education, respectively. Women's access to formal market labour continued to be restricted by their parenting activities, which were not yet shared by men. Although, at the national level, fertility had declined and more women knew about methods of contraception, there was a wide difference between rural and urban areas. She stated that the Constitution gave equality between women and men clear legal support and that the Civil Code, the Labour Code and the Children's Code were under review. The Government had appointed a growing number of women to top decision-making levels in all sectors of the executive, legislative and judicial systems.

#### General comments

402. The members of the Committee welcomed the fact that Peru had ratified the Convention without any reservations, that the Convention was an integral part of domestic Peruvian legislation, and that, in the event of any conflict, the Convention would prevail.

403. Members noted that Peru's second report did not take into account observations made by the Committee on the first report and did not even follow the Committee's guidelines. The representative emphasized that, in 1990, at the time of the preparation of the second report, the country's situation had been especially difficult and had impeded the normal functioning of several institutions. She informed the Committee that subsequent reports would take into account the guidelines for the preparation of the reports.

404. When the initial report was submitted, the Committee, while recognizing the enormous difficulties facing the country, had asked for more detailed information concerning the existence of women's organizations. Members noted that the current report did not provide relevant information on that point. Members also asked whether the report had been published. In reply to a question as to whether non-governmental organizations had been consulted, the representative informed the Committee that in Peru there were 110 women's non-governmental organizations, including eight networks, and that common action was being developed in order to promote

a new social perception of women, gender perspective in social and economic policies and women's participation in decision-making.

405. Members expressed concern that the lack of official statistics on the status of women, to which the report referred, was a source of sexist prejudice which impeded the understanding of the situation of women in Peru. They wanted to know what the Government was doing to update or improve data pertaining to the status of women. The representative replied that subsequent reports would include statistics on women which were collected in the 1993 national census. The National Institute of Statistics and Computing had formed the Inter-institutional Commission for the System of Social Indicators on Children, Youth and Women for the generation and systematization of statistics on these groups.

406. In the context of legal initiatives undertaken since the initial report, one member asked which of the two Acts - No. 25011 and No. 23506 - afforded better protection against discrimination. The representative replied that law No. 23506, concerning habeas corpus and amparo, had been promulgated in 1982. That law had been modified in 1989 through law No. 25011, and in 1992 by legislative decree No. 25433. Those laws seek to guarantee individual freedom to men and women which can be enforced through the Constitution. She noted that, consequently, women can enforce the rights established in the Convention through those laws.

#### Questions relating to articles

##### Article 2

407. Article 101 of the Constitution provides that international treaties subscribed to by Peru shall subsequently form an integral part of national legislation, and that the Convention thus supports and protects women against all forms of discrimination. In reply to concerns raised by the Committee relating to the real force of this provision, the representative stated that, effectively, the Constitution of Peru provided that international treaties concluded by Peru formed part of municipal law, and, accordingly, article 2, which established that everybody is equal and cannot be discriminated against by reason of sex, was part of the law of the land. She agreed that despite the increase in the integration of women in public life during 1990, de facto inequality between women and men was still persistent.

408. Asked about the specific content of the equality clause in the National Population Law and whether recourse was available in the event that national equality legislation was not applied at the local level, the representative said that the National Population Law established equality between men and women where family planning was concerned and provided recourse to courts.

409. The report stated that relatively minor provisions of the former Civil Code concerning women had been retained in the new Code, which was promulgated in 1984. Members of the Committee requested information on how many cases had been heard by the courts under the new Civil Code with a view to halting activities that discriminate against women. The representative said that the Civil Code of 1936, which discriminated against women, had been replaced by the 1984 Civil Code after the promulgation of the 1979 Constitution, and that the main changes introduced concerning discrimination were with respect to married women. She informed the Committee that there was no information on cases of discrimination or their prosecution by the judiciary and that studies are required in this regard.

### Article 3

410. As to the new Constitution which entered into force in December 1993, various concerns had been expressed with respect to a number of elements, especially the fact that the principle of fundamental equality had been eliminated and that economic, social and cultural rights had been omitted from the category of fundamental rights. It was also pointed out that, by and large, the State no longer shouldered the responsibility for social welfare, such as the provision of health services, education and land redistribution; it was feared that all this had negative repercussions for women and had affected their status. The representative emphasized that the 1993 Political Constitution of Peru included chapters on "The Fundamental Rights of the Person", "Social and Economic Rights" and "Political Rights and Obligations". These three chapters made specific reference to the role of the State in the area of employment, health, education, security, public services and infrastructure. Furthermore, she pointed out, the Government had given priority to the elimination of poverty by the establishment of a large programme of public expenditure on education, health and basic justice. This social policy put special emphasis on the most vulnerable sectors of the population, specifically women and children. Furthermore, article 4 of the Constitution clearly stated that the community and the State are both responsible for the protection of abandoned children, adolescents, mothers and the elderly. Following the 1993 Constitution, land distribution was effected through market mechanisms.

411. As to the questions of specific integrated policies for women, the representative informed the Committee of the public policy regarding women and its objectives. These include: access to decision-making, equality and equity in the benefits of development, equality with men in political participation and citizenship, incorporation of gender equity in the mainstream of public policies and elimination of cultural and attitudinal sex stereotypes. She further emphasized that the Government was coordinating its action with that of women's NGOs, specifically in nutrition, health, education programmes and in rural areas. She also made reference to other coordinating activities around specific issues.

412. Asked whether a Police Commissioner's Office for Women has been created and, if so, how it operated, the representative replied that, since 1988, the Government had opened 12 women's police offices. These offices, which have the support of women's NGOs, offer affected women legal, psychological and social advice. These actions have the support of women's NGOs.

#### Article 5

413. Members of the Committee noted that human rights organizations had documented cases of rape perpetrated against rural and indigenous women in areas subject to civil strife. There are reports of 40 instances of rape allegedly committed by security forces in the course of interrogations in such areas. It had been estimated that only 10 per cent of all rape victims officially reported the crime because it is difficult to prosecute perpetrators. There were also reports of rape by members of Shining Path. In reply to requests for more information about the causes of violence experienced by these women and preventive action that has been taken, the representative informed the Committee that, according to investigations carried out by the Government and NGOs women had been the victims of terrorist activities by the Shining Path and the Revolutionary Movement of Tupac Amaru, as well as in some instances by the security police force. Investigations were under way to prosecute such crimes.

414. Peruvian non-governmental organizations have compiled very thorough data on violence against women, and members of the Committee wanted to know what concrete steps or initiatives the Government had taken to protect the fundamental human rights and dignity of women and the physical integrity of its citizens. In reply, the representative said that law No. 26260, promulgated in 1993, established the legal framework to confront domestic violence. That law, which was currently being implemented and disseminated, had been accompanied by the creation, in the capital, of advice centres for women. Other measures were being implemented, including changes in school curricula, campaigns for the dissemination of the law and its importance and the opening of a greater number of women commissioner's offices.

#### Article 6

415. When the initial report had been considered, further information had been sought with respect to the extent of prostitution, the role played in that phenomenon by poverty and the steps taken to combat it, including the establishment of health identification cards. While the current report described a disturbing increase in the number of women engaged in drug-trafficking and terrorism, no mention was made of the problem of prostitution, even though the aforementioned activities generally led to prostitution. The representative was requested to inform the Committee whether houses of prostitution were widespread and health checks effective.

The representative informed the Committee that the Penal Code regulated prostitution and included obligatory sanitary control. She pointed to studies carried out by NGOs and to studies planned by the Government to obtain more information and statistics on this issue. Child prostitution was condemned in the legal code.

416. Replying to a question as to whether the Ministry of Justice had taken any steps to improve the condition of female prisoners, the representative said that women prisoners represented nearly 10 per cent of the total of prisoners and that they were placed in prisons exclusive to women, mostly attended by women officers. Supreme resolution No. 047-92-JUS specified that children of female prisoners up to the age of three could be accommodated in separate child-care centres. She noted that many of the leaders of the terrorist movement were women. She also noted that training programmes in human rights were developed for police officers in this respect.

#### Article 7

417. Asked about specific measures taken by the Government to increase women's participation in the decision-making process, the representative informed the Committee that the Government had appointed two women ministers and increased women's visibility by nominating them to various levels of decision-making in central government and its autonomous agencies.

418. Regarding the request for specific information on women in the various sectors of public affairs, and especially in politics, she informed the Committee that in 1979 the right to vote had been extended to illiterates, who were mostly women. However, the political participation of women was very low and its growth slow; she quoted statistics showing that at the local level, in the country and Lima, respectively, 5 per cent and 11.6 per cent of mayors were women. In 1990, women represented 40 per cent of members in the professional organization of accountants, and 20 to 25 per cent of members in professional organizations of doctors, lawyers, architects and odontologists. However, she also emphasized that the political crisis had placed many women in leadership positions in important political parties and that, at the local level, poverty and political violence had given women a leadership role, where they had acquired negotiating and managerial skills.

419. The representative was asked for information on the participation on women in the current Parliament as compared to 1991. The representative informed the Committee that, in 1992, the proportion of women in the Congress was slightly higher than in the past, i.e., currently 8 per cent.

### Article 11

420. According to the report, 81 per cent of all women are unemployed or underemployed. Problems relating to women's employment were particularly important because 23 per cent of all Peruvian households were headed by women. This was also significant in view of the fact that women have access to various vocational education and training programmes. In addressing the reasons for the unemployment rates of women, the representative emphasized that the heavy burden of family responsibilities was still impeding women's employment. She informed the Committee that child-care alternatives had been introduced by civil society and that the Government was working in cooperation with the United Nations Children's Fund (UNICEF) to set up child-care centres and to open up job opportunities for women.

421. The representative informed the Committee that law No. 24705 of 1987, which qualified home-makers as independent workers and, in consequence, allowed them to have access to health services and pension schemes guaranteed by social security, was being implemented.

422. In reply to a question concerning the proportion of women who could obtain access to social security protection, the representative said that article 12 of the Constitution established that the Government guarantees social security to all. Working women, whether employed, or self-employed independent workers, have access to social security, as do those who are 55 years old and have contributed to the social security system for at least five years.

423. Asked about the sectors in which women and men were typically employed, the representative said that, in 1991, 67 per cent of economically active women were engaged in tertiary activities. That represented a 10 per cent increase compared with 1981.

### Article 12

424. Since family planning information and advisory services are provided by private agencies and financed by international organizations, members wanted information on the percentage of the population involved in family planning, on the profile of the population served by family planning and on the initiatives the Government was taking in this context. In reply to the Committee's concerns, the representative informed it that knowledge about family planning methods among married women is widespread. Fifty-nine per cent of women of fertile age (15 to 44 years) had employed some form of contraception: 56 per cent of them used modern methods and 44 per cent preferred traditional methods. The natural rhythm method seemed to be on the rise. She indicated that the choice of method was directly linked to location (urban or rural) and to the level of education, with women living in urban areas and with a high level of education tending to choose modern

methods. In so far as public action in this context was concerned, the representative informed the Committee that the National Fund for Compensation and Social Development, one of the main programmes directed to the elimination of poverty, had directed 7 per cent of its budget to the health sector, mostly for the improvement and expansion of health centres. Although the current coverage of the health infrastructure per capita was inadequate, she noted that it had doubled since the last decade. Public institutions in charge of family planning were the National Council of Population, the Ministry of Health and the Peruvian Institute for Social Security.

425. In reply to questions regarding the legislation relating to abortion and its practice, the representative informed the Committee that the Penal Code of 1991, which replaced that of 1924, provided for imprisonment up to two years in practice, however service for illegal abortion was implemented. She stated that the Peruvian Government considered abortion to be a serious public health issue and the principal cause of mortal maternity, especially among poor women. She added that the law provided only for therapeutic abortion, which was available only when the mother's health or life was in danger. Doctors had to face a more severe punishment depending on whether the woman had consented and whether the abortion had led to her injury or death.

426. Members requested information on the country's population policy, as well as more statistical data on the health situation. They also asked whether data were available on the prevalence of contraception. The representative quoted statistics which showed that in 1993, the maternal mortality rate was 261 per 100,000, a decrease since 1981, when the rate had been 321. She informed the Committee that maternal mortality rates among women without formal education were higher than the national average and higher than the rate 10 years previously. The main factors identified as causes were abortion and inadequate sanitation. Estimates of rates of infant and child mortality were an average of 64 and 92, respectively, per thousand for the period 1981-1991. The representative informed the Committee that in Peru only half of childbirths were attended by professionals. However, in rural areas only 18 per cent of births were attended. She pointed out that the number of persons affected by human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS) was increasing and that the registered number in 1992-1993 was higher than the total registered from 1983 to 1991. She said that there was a growing proportion of women and children among the affected. She emphasized that, despite the growing incidence of HIV/AIDS, insufficient attention had been paid to the disease and the response of the judicial-legal system to it was inadequate. She informed the Committee that when the disease had been first discovered, there was only one woman victim for each 20 affected men; today, the proportion was one woman for each four men. She stated that this increase reflects women's social, biological and epidemiological vulnerability.



#### Article 14

427. Most rural women in Peru were said to be occupied in the most traditional forms of farming, in which they undertook the most menial tasks. In reply to a question about whether any measures were planned to improve that situation, the representative said that rural women had a leading role in their communities because during the past decade many men had died or migrated. She confirmed that most women were not involved in income-generating activities. She indicated that the Government was implementing a project which recognized women's rights to have access to the land which they directly worked and thus access to wealth. Another project, designed to allow the transfer of technology to rural areas, included the participation of women as extension agents. She said that a network, led by the Food and Agriculture Organization of the United Nations (FAO) and made up of several institutions from the public and private sectors, had been created for the support of rural women.

428. Members expressed concern at the fact that, in the absence of decentralization called for under the national regionalization plan, women were denied any involvement in decision-making. The representative recalled that violence and economic crises had induced rural women to assume various public duties. She emphasized that, during the previous decade, the role of women and the perception society had of them, as well as the expectations of women themselves, had changed. Nevertheless, she noted that, although women were increasingly integrated and accepted in the public sphere, women's equality within the private sphere remained a problem.

429. In reply to a question about concrete steps the Government had taken to raise the living standards of indigenous women, the representative said that the Government had primarily directed its efforts to supporting the basic needs of rural women. At the present time, the Ministry of Agriculture was developing programmes for women's access to resources. It was also coordinating the network of international and national organizations for the support of rural women, through their organization and the management of credit.

#### Article 16

430. Members of the Committee requested more detailed information on the Family Code, divorce and differential views on adultery by men and women. The representative informed the Committee that the Peruvian Civil Code included a chapter on divorce which did not discriminate between women and men. Replying to questions relating to the provision of alimony after divorce, the representative said that alimony was awarded, without distinction between women and men, to the partner who had fewer economic resources and this obligation ceased automatically if the person receiving alimony remarried.

431. Replying to the Committee's request that it be provided with statistics on divorce and child custody (maternal/paternal/other), the representative said that the Government was in the process of developing statistics on the subject and identifying the main variables for their study.

#### Concluding comments of the Committee

##### Introduction

432. The Committee commended the Government of Peru for ratifying the Convention without reservations. The report did not follow the general guidelines and lacked important details such as comparative statistics over time. Information requested by the Committee when the initial report was submitted were not provided in the second periodic report. One such information was the involvement of women's organizations in the preparation of the report.

##### Positive aspects

433. The Committee noted that the Convention was an integral part of the Peruvian domestic legislation and in the event of any conflict, the Convention prevailed.

434. The Committee noted that although the Special Commission on Women's Rights was terminated in 1990, a Permanent Commission on Women and Children's Rights had been established in 1994 to coordinate activities relating to women's rights.

435. The Committee noted the passage of a Domestic Violence Law, which had been supported by many women's groups. It would complement the work of Police Stations (Comisarias de Policia) in dealing with cases related to violence against women. Likewise, a law prohibiting discrimination against pregnant women had been passed.

436. The Committee noted the increase in women judges in Peru.

##### Principal subjects of concern

437. The Committee asserted that peace and development were essential for promoting women's rights and should be pursued, even as the Government was trying to extricate itself from political crisis. Concern was raised about the effects of recent political developments in Peru on women, particularly in the exercise of their civil liberties.

438. The Committee raised concern about reports of rape, gang rape and custodial rape which had been documented by human rights organizations, especially those occurring in the "emergency zones" and affecting indigenous and peasant women.

439. Special concern was expressed by the Committee to the plight of displaced/refugee women and children in resettlement areas.

440. High unemployment rates among women was another matter of concern of the Committee. It had forced women to seek employment in the informal sector without access to credit, social benefits and other supportive infrastructure.

441. The Committee was alarmed to note that women were resorting to small-scale drug trafficking as a means of survival.

442. Whereas women had been entering universities in increasing numbers, illiteracy among women still remained high.

443. The health status of women and children in Peru was of great concern to the Committee, particularly as regards high maternal mortality rates resulting from clandestine abortions.

#### Suggestions and recommendations

444. The Committee calls upon the Government to ensure the provision of social services as education, employment and health as this greatly affects women.

445. The Committee strongly recommends the strengthening of the National Council for Human Rights in its investigation of human rights abuses against women detainees and civilians and calls for more updated and gender-disaggregated information on the Nationwide Register of Detainees as well as cases of enforced disappearances.

446. The Committee urges the Government to look into the causes of high maternal mortality rates arising from clandestine abortions and to review the law on abortion, taking into consideration the health needs of women and to consider suspending the penalty of imprisonment for women who have undergone illegal abortion procedures.

447. The Committee suggests further that the Government seek the cooperation of medical associations and of judges and lawyers to consider more expansive use of the therapeutic exception to the criminal prohibition of abortion, in cases of danger to the mother's health.

448. The Committee calls for more effective measures to hasten the reintegration of displaced and refugee women into society.

449. The Committee encourages the Government of Peru to take measures that the strengthening of the family leads simultaneously to a strengthening of individual rights of women and to an equal distribution of responsibilities between women and men.

450. The Committee recommends that the organ which was created to coordinate the activities regarding women's rights be politically and administratively strengthened in order to coordinate public policies aimed at improving the situation and position of women.

451. The Committee asks that the subsequent report be written in conformity with the reporting guidelines and contain comparative statistics.