



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women Fifty-eighth session

Summary record (partial)* of the 1218th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 1 July 2014, at 3 p.m.

Chairperson: Ms. Ameline

Contents

Consideration of reports submitted by States parties under article 18 of the Convention
(continued)

Combined seventh and eighth periodic reports of Peru (continued)

* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined seventh and eighth periodic reports of Peru (continued)
(CEDAW/C/PER/7-8; CEDAW/C/PER/Q/7-8 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Peru took places at the Committee table.*

Articles 10 to 14 (continued)

2. **Mr. Bruun** asked whether the second National Plan to Combat Forced Labour, adopted in 2013, included specific provisions for female domestic workers and whether steps had been taken to prevent and combat child labour. He requested further information on measures taken to facilitate women's access to the labour sector, narrow and close the gender pay gap, ensure the implementation of the principle of equal remuneration for work of equal value and guarantee that women working in the informal sector had access to social security and other benefits. He also wished to know whether the State party intended to ratify International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), and amend the Labour Code so that informal workers, specifically domestic workers, had equal access to paid maternity and paternity leave. Lastly, he asked the delegation to provide information on national efforts to combat sexual harassment in the workplace, in particular regarding the complaints procedure and the number of cases investigated and prosecuted.

3. **Ms. Nwankwo** asked whether the Government had implemented the Human Rights Committee's recommendations regarding the *K. L. v. Peru* case and, if so, whether the draft amendments to the Criminal Code decriminalizing abortion in specific situations included cases of foetal impairment. She also wished to know whether the State party intended to repeal article 30 of the General Health Act, which required medical staff to report illegal abortions to the relevant authorities. What steps had been taken to ensure that the recently adopted abortion protocol, which required abortions to be performed in the presence of a witness and authorized by a medical ethics board, did not violate women's rights? She asked the delegation to provide information on measures taken to ensure equal access to modern methods of contraception and sexual and reproductive health-care services, in particular for rural women and women on low incomes. Lastly, she wished to know whether the number of public defenders in Peru would be increased in response to the high number of rape cases reported.

4. **Mr. Ávila Herrera** (Peru) said that the Government had drafted guidelines which clearly set forth the roles and responsibilities of the public and private sector in tackling forced labour. The guidelines were currently before the Parliament and would be adopted shortly. The Government remained committed to addressing the issue of forced labour and was considering ratification of ILO Convention No. 189.

5. **Ms. Rojas Ortíz** (Peru) said that the Government continued to monitor the gender pay gap and had introduced a national pilot scheme with two private companies so as to meet its obligations under the ILO Equal Remuneration Convention, 1951 (No. 100). Women had consequently seen a marked increase in their average income in recent years. Steps had also been taken to strengthen legislation governing maternity and paternity leave and improve workplace provisions for mothers, including the establishment of day-care centres and separate breastfeeding areas. Concerted efforts had also been made to address sexual harassment in the workplace. Unannounced workplace inspections were carried out on a regular basis and penalties were imposed as appropriate.

6. **Mr. Chávez Basagoitia** (Peru) said that it would be wrong to conclude that women working in the informal sector in Peru could not access social security and other benefits. Female domestic workers could often demand higher wages than certain formal sector workers, particularly in the country's capital, and could choose to contribute to the national social security system on a voluntary basis.
7. **Ms. Miraval Gambini** (Peru) said that the number of rape cases in Peru compared favourably to that of other countries and it would be wrong to imply that the State party had a disproportionately high incidence of rape.
8. **Mr. Ávila Herrera** (Peru) said that the Government had developed a plan of action to protect workers in the informal sector and combat forced labour. A national commission had been established to prevent incidences of forced labour and a proposed amendment to the Criminal Code increasing the applicable sentence for such crimes from 2 to over 10 years' imprisonment had been submitted to the parliament for consideration. In the same vein, the Government had also devised a plan to tackle the illegal mining sector, which often employed undocumented workers and involved cases of forced labour.
9. **Mr. del Carmen Sara** (Peru) said that access to the morning-after pill had been restricted following a Constitutional Court ruling in 2009. The Government had subsequently decided to ease the restrictions that had been imposed; however, supply chain difficulties continued to hamper women's access to such drugs. In contrast, the availability of other modern methods of contraception had increased significantly and a greater proportion of women, including rural and indigenous women, could take charge of their sexual and reproductive health.
10. Turning to the issue of abortion, he said that the Government remained committed to protecting women's sexual and reproductive health rights. The recently adopted abortion protocol had been designed as a tool to assist doctors in their assessment of abortion cases and provided for a process that protected the best interests of the patient at all times.
11. **Ms. Pimentel**, pointing out that the State party was still far from reaching its target regarding maternal mortality, asked whether the Government had assessed its relevant strategies and whether it might reconsider its position on access to safe abortions. She said that, given its stated objective of changing traditional gender roles, the Government should extend paternity leave beyond a paltry four days. She asked whether agricultural policies took into account the fact that most agricultural workers were women. She enquired about any special assistance provided to people of African descent living with HIV/AIDS. While she commended the State party on the adoption of anti-bullying legislation, she wished to know whether young members of the LGBT community were also protected.
12. **Ms. Bareiro-Bobadilla** expressed concern that the delegation seemed to deny the high prevalence of rape in the State party whereas it was among the countries with the largest number of complaints, even if that might simply reflect the fact that victims felt that they could come forward. It would be useful to know to what extent women of African descent were victims of sexual harassment in the workplace. The Government should not shirk its responsibility and leave the regulation of domestic work to the market.
13. **Mr. Ávila Herrera** (Peru) said that the delegation had taken due note of the Committee's concern regarding the length of paternity leave, but that the Government had no intention of extending it. Concerning the question raised about the relevant provisions of the General Health Act and the Code of Criminal Procedure which imposed the obligation to report illegal acts, he said that doctor-patient confidentiality was guaranteed under the Constitution.
14. **Ms. Jahan** asked what measures the Government was taking to incorporate a gender perspective into its policies, specifically, how the National Plan for Gender Equality tackled

the issue and whether there was a gender component in the budget for rural development. Pointing out that the lack of disaggregated data made it difficult to assess the situation of elderly women and women with disabilities, she asked what programmes and protection measures were in place or planned for those groups. She wished to know whether and how the Government was taking into account the specific impact of climate change on women, especially indigenous and rural women. She also asked how the Government involved indigenous women in discussions regarding land rights in the context of development programmes and land deals with multinationals and the extractive industry, and whether provision was made for alternative livelihoods and compensation.

15. **Ms. Rojas Ortíz** (Peru) said that a working group involving lesbian representatives had been set up in 2012 as a forum for dialogue and awareness-raising. It had conducted a study to measure the extent to which lesbians experienced discrimination. The National Plan for Gender Equality contained three relevant objectives, namely, to raise awareness of gender diversity, develop health-care protocols that focused on gender and sexual orientation and reduce violence on the grounds of sexual orientation. A study had also been carried out regarding women of African descent, which had generated disaggregated data. Thanks to on-site visits conducted by the Ministry of Labour in 2012 and 2013, 1,600 women in the agricultural sector had learned about their rights and a number of employers had been fined for irregularities. Citing a series of statistics from the 2012 agricultural census, she said that nearly 40 per cent of farmers were women, that more rural women than men were illiterate and that most rural land was owned by men; the Government planned to use the data to better tailor its policies to the needs of women. The Ministry of Labour also produced data on the recipients of its various national programmes, disaggregated by gender, age, geographical area and disability.

16. **Mr. Ávila Herrera** (Peru) said that the anti-bullying law provided for psychological assistance for victims. The anti-discrimination framework applied to all persons without distinction, including members of the LGBT community.

Articles 15 and 16

17. **Ms. Halperin-Kaddari**, drawing the delegation's attention to the Committee's general recommendation No. 29, requested additional information on marital property regimes, especially with regard to the separation of assets, including pensions and insurance policies, in the event of divorce. She asked whether the very low rate of female land ownership in rural areas resulted from a lack of awareness and enforcement of women's rights and, if so, how the Government was addressing the problem. She also asked whether the provisions regarding child custody had been made more equal and whether a system was in place to ensure that fathers actually paid child support or to assist mothers and children when they did not. Referring to certain provisions of the Civil Code which the State party had acknowledged were discriminatory, in particular the provision regarding female cadets who became pregnant, she asked whether there were plans to amend or repeal them.

18. **Mr. Ávila Herrera** (Peru) said that the Civil Code provided for child support and that a law had been enacted on the establishment of a register of fathers who failed to make their maintenance payments. In addition, mothers could now claim child support for children up to the age of 15 years.

19. **Ms. Rojas Ortíz** (Peru) said that the law had been amended to provide for joint custody and to make it possible for women to claim child support once paternity had been established. Some progress had been achieved with regard to elderly women through the Ministry of Women and Vulnerable Groups, which was currently devising the second National Equal Opportunities Plan for Older Persons with a view to expanding access to social security.

20. **Ms. Ibáñez Carranza** (Peru) said that the Civil Code provided for the equal division of assets acquired during marriage in the event of its dissolution, including pensions and insurance policies. The provision of the Code applied not only to formally married couples but also to those in de facto unions. The Civil Code also provided for child support. In nearly all cases, custody of children under the age of 7 was awarded to mothers, and fathers could be required to pay up to 60 per cent of their income in child support. Moreover, judges were obliged to issue provisional orders for child support maintenance whenever it was requested, and fathers who disregarded the orders could be imprisoned. It was not necessary to turn to the courts, however. Municipal offices of the Ombudsman for Children and Adolescents could ensure that child support payments were made after reaching an agreement with the father. Although the offices were not part of the judicial system, their decisions had legal effect.

21. The prohibition on the remarriage of widows within 300 days from the date of the death of the spouse had been instituted to protect the interests of any children of the deceased whom they might have. Until very recently, pregnancy had been grounds for expulsion from military academies. The Constitutional Court, however, had ruled that cadets could no longer be expelled for becoming pregnant during their studies.

22. **Mr. del Carmen Sara** (Peru), in response to the concerns raised about maternal mortality rates, noted that official figures for maternal mortality in the State party were released for five-year periods. Since 2000 maternal mortality rates had fallen sharply. Figures released in 2010 showed that there had been 93 deaths per 100,000 live births; those figures, however, were for the period 2005–2010. An unofficial estimate for 2010 had put the rate at approximately 67 deaths per 100,000 live births. In fact, the success of health policies aimed at persons living in poverty or in rural areas was reflected in the steady increase in recent years in the share of rural women who gave birth in clinics.

23. Turning to the question raised concerning the technical guidelines to legal abortion issued by the Ministry of Health, she said that the guidelines set out a clear protocol for the performance of abortions when the life or health of the mother was in danger, which was not subject to criminal penalties. However, abortion on other grounds was punishable under the Criminal Code. As a result, medical professionals continued to have doubts over performing the procedure. The technical guidelines had clarified matters considerably. It was now not so much for the Government to determine what additional amendments to the law had to be made as it was for Peruvian society.

24. **Ms. Pimentel** asked whether it was correct that married women needed permission from their husbands to work outside the home. She said that corporal punishment of children was also a concern. She understood that it was not authorized in school, but wondered whether it was permitted in the home. Regarding sexual abuse in family settings, she said that it was a considerable problem throughout Latin America and that addressing it required a specific, meticulous strategy. Lastly, she asked whether there was a special focus on internal migrant women, migrant women and women in prison.

25. **Ms. Jahan** asked whether disaster-response and risk-reduction plans such as the National Plan for Environmental Action had incorporated a gender perspective. She also asked how the requirement that indigenous people should be consulted on any measures directly affecting them was being implemented. How did indigenous women take part in consultations regarding development programmes or such large-scale acquisitions of land as those made by oil or mining companies? What compensation mechanisms and alternative livelihoods were available to those women?

26. **Ms. Bareiro-Bobadilla** said that the reason for the 300-day prohibition on remarrying after the death of a husband was not to protect the interests of the child but to ensure that children who were not the offspring of the deceased did not inherit his estate.

Since DNA testing could now establish or rule out paternity with certainty, she wished to know whether any steps had been taken to amend the law.

27. **Ms. Nwankwo** said that she was puzzled by the remark that it was for society to decide how to amend legislation. If a treaty body — the Human Rights Committee, for instance — decided that a State party should consider amending legislation to bring it into line with a Convention, the State party should give that decision serious consideration; it was not for society to decide which laws to amend and which laws not to amend. The Constitutional Court had ruled that the distribution of emergency contraceptives should be discontinued; nonetheless, a ministerial resolution had authorized their continued distribution. She wished to have further details as to how such conflicting decisions were resolved by the executive branch of Government and the judiciary.

28. **Mr. Ávila Herrera** (Peru) emphasized that nothing justified the ill-treatment of women and children in the home. Replying to the question about the incorporation of a gender perspective into environmental and disaster risk reduction measures, he said that plans such as the ones approved by the Ministry for Women and Vulnerable Population Groups did indeed have a gender focus and efforts were under way to introduce a gender perspective to other plans in other areas.

29. **Ms. Rojas Ortíz** (Peru) said that gender, risk reduction and climate change were new areas of work for her Government, which had established specific targets to increase women's capacity to manage and control resources. It was endeavouring to increase the literacy rates and access to health coverage of rural women by 2017. Regarding women and the prior consultation of indigenous populations, she said that training had been offered by the Ministry of the Environment and that the Ministry of Health had developed intercultural health policies. In accordance with the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the law on the right to prior consultation, the Government consulted with the peoples concerned whenever consideration was given to measures that might directly affect them. It had made great efforts to ensure the full participation of women in the consultation processes. A considerable number of women participated in those efforts, including the training sessions on the right to prior consultation led by the Ministry of Culture.

30. **Mr. Ávila Herrera** (Peru) said that female victims of forced displacement were beneficiaries of the Comprehensive Reparations Plan and displacement appeared as a category of its own in the Central Register of Victims of the Violence.

31. **Mr. Chávez Basagoitia** (Peru) said that married women did not require their husbands' permission to work outside the home. The relevant provision of the law had been annulled with the entry into force of the new Civil Code in 1984. As to women's participation in prior consultations with the Government in matters of concern to them, he said that in Peru the consultations were concerned primarily with the activities of the extractive industries. The prior consultation process was new, the subject was highly sensitive and the State was slowly gaining experience in carrying out such consultations. Implementing ILO Convention No. 169 implied granting indigenous populations considerable autonomy. Their traditions must be recognized, and considerable forethought and care were needed for the State to reconcile the promotion of women's rights and the principle of respect for the traditional ways of life of indigenous peoples. It was a balance that was sometimes hard to strike, especially given that the process was still being learned.

32. In Peru everything that had to do with abortion was a highly sensitive political and social topic. The Committee was aware of the considerable time and effort that it had taken to adopt the recent protocol on therapeutic abortion. Dealing with abortion was likely to continue to be difficult, particularly if it was linked to family planning. If the International

Covenant on Civil and Political Rights had established an unequivocal right to abortion, it was highly unlikely that Peru would have ratified it.

33. **Mr. Ávila Herrera** (Peru) said that he wished to add only that the Government, as part of its social agenda, had focused on infrastructure, health and education. In its work in these areas, international human rights law would serve as a beacon.

The discussion covered in the summary record ended at 4.55 p.m.