



**Convention on the Elimination
of All Forms of Discrimination
against Women**

Distr.: General
30 January 2007

Original: English

**Committee on the Elimination of Discrimination
against Women**
Thirty-seventh session

Summary record of the 763rd meeting (Chamber A)

Held at Headquarters, New York, on Friday, 19 January 2007, at 10 a.m.

Chairperson: Ms. Simms (Vice-Chairperson)

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In the absence of Ms. Šimonović, Ms. Simms (Vice-Chairperson) took the Chair.

The meeting was called to order at 10 a.m.

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

Sixth periodic report of Peru (CEDAW/C/PER/6, CEDAW/C/PER/Q/6 and Add.1)

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

2. **Ms. Zapata** (Peru), introducing her country's sixth periodic report, referred the members of the Committee to a supplement to it, distributed in the meeting room and said that the Government of Peru had taken a number of steps to promote the rights of women, pursuant to the Convention and to the Committee's recommendations in 2002. In January 2007, it had promulgated Law 28950 on trafficking in persons and illicit trafficking in migrants, which increased the punishment for offenders and offered support for the care and rehabilitation of victims; it had submitted a bill to Congress aimed at strengthening the provisions of the Sexual Harassment Act against the sexual abuse of household employees; it had promulgated Law 28927 on the implications of the public sector budget for 2007 for gender equity policies; and, under Law 28867, it had characterized discrimination as an offence.

3. The Ministry of Women and Social Development spearheaded efforts for women's empowerment through a variety of new institutional mechanisms that gave special attention to the integration of all ethnic groups and the fight against social exclusion. The National Equal Opportunity Plan for Men and Women 2006-2010 defined discrimination against women and set goals for its eradication. General Education Act 28044 of 2003 provided for equality of treatment in education for boys and girls, while under the 2002 National Accord, priority was given to equal opportunity for women, through affirmative action.

4. The Government had accordingly introduced gender policies in the Ministries of Women and Social Development, Health, Education, Labour and Employment, Production, Interior, Justice and Agriculture, as well as in the National Institute of Statistics and Information Science. Under Law 28720, children born out of wedlock could be registered under

the name of both parents. In accordance with the National Human Rights Plan 2006-2010, strategic measures had been adopted for the eradication of discrimination against women. Under a resolution passed by the Ministry of Education in 2005, setting gender equity targets, children were not required to present a birth certificate for school enrolment.

5. Turning to the question of violence, she said that a national scheme for the prevention and treatment of family violence and sexual abuse had been put in place, and Congress was currently reviewing a bill to give the second National Equal Opportunity Plan for Men and Women the status of law and a proposal to extend reporting procedures under the Sexual Harassment Act. Under Law 28704, more severe penalties could be handed down for sexual offences against children, including life imprisonment, while Law 28251 of 2004 punished offences against sexual freedom, including for the first time the users and purveyors of publications harmful to minors.

6. To ensure the full development and advancement of women, in accordance with article 3 of the Convention, several institutional mechanisms had been put in place, including the establishment of Councils and Commissions for Women in 19 regional governments and Regional Observatories for Women in three departments. By way of temporary special measures, four Gender Quota Acts had been promulgated to ensure women's representation in applications for membership of the governing bodies of political parties, Regional Councils, municipal authorities and Congress. Under the quota system thus established, the number of women elected to Congress had risen to 13 in 2006; there was a woman President of Congress; and women headed the Public Defender's Office, the National Election Procedures Office and the National Penitentiary Institute. In addition, the women leaders of grass-roots organizations had been included in 190 provincial food programme management committees. Women had been appointed as State Ministers or Deputy Ministers in several ministries, while at the international level, 68 women had been appointed to positions in the diplomatic service.

7. The Government had taken a number of steps to modify social and cultural patterns of conduct through training in reproductive health, gender issues and interculturality, notably among the Quechua, Aymara and Ashaninka populations, and to combat stereotyping, in particular through the action of

education centres and the Wawawasi National Programme. Reception centres had been established in three departments for the victims of sexual exploitation, while databases had been developed under the responsibility of the National Police for the purpose of following up cases of trafficking in persons; temporary shelters for sexually abused children and adolescents had been in operation since 2002. She pointed out in that connection that Peru had ratified ILO Convention 182 on the worst forms of child labour.

8. The Government applied a zero-tolerance policy in regard to violence against women and girls. It had, in addition, taken steps to strengthen the services provided to victims by Women's Emergency Centres, the 12 commissioners' offices for women and other relevant services, with the help of volunteer networks, as part of a national system for the prevention of violence and the care of victims. She mentioned in particular the assistance given by Belgium to the Department of Ayacucho in its efforts to increase the economic independence of the victims of domestic violence and sexual abuse and thereby enable them to escape from repeated violence.

9. Women enjoyed the same nationality rights as men and did not lose their Peruvian citizenship if they married a non-Peruvian. They had the same opportunities in education: in the period 2000-2004, the average length of studies of girls had risen to 11 years in the coastal region and 7 years elsewhere. The proportion of women without education between the ages of 15 and 45 had dropped by 1 per cent to 4 per cent, except in rural areas, where it was 9 per cent. However, school attendance among girls in the two Amazonian ethnic groups (Kichwa and Awajun) had improved by 6 per cent through the Peru-Ecuador Border Programme, under which they received a bilingual, intercultural education. In the employment field, temporary work had been provided for 27 per cent of women heads of household and a number of public and private childcare centres had been set up or were being put back into operation; in addition, a bill on shared parental authority had been drawn up. The representation of women in the labour market had improved, although they still earned 30 per cent less than men.

10. Sexual and reproductive health-care policies were being strengthened under a strategic plan with a view to reducing mother and child mortality rates, in

particular through the establishment of prenatal care centres in rural areas and the appointment of over 2,000 local maternal health officers. In 2004, comprehensive health insurance had been provided for some one and a half million pregnant women and three million children up to the age of 4; in rural areas, 91 per cent of pregnant women had received prenatal care. A special kit had been developed for educators for the promotion of sexual and reproductive health among young workers and street children, with emphasis on pregnancy prevention. Free contraceptive pills continued to be distributed, particularly in hospitals. A rights-based approach had been adopted to combat the HIV/AIDS pandemic as part of the fight against poverty. Antiretroviral treatment was regarded as forming part of the right to health; progress had been made in screening pregnant women in health care and penitentiary institutions.

11. In the matter of economic rights, State programmes to support small enterprises included a gender-based approach, with enlarged facilities for women entrepreneurs. The number of women property owners in rural areas had increased from 4 per cent to 25 per cent, while rural and indigenous women in situations of poverty or extreme poverty were benefiting from a number of specific policies and programmes. Moreover, between 2004 and 2006, 13 outstanding rural women had been decorated with the Order of Merit on the occasion of International Women's Day.

12. A concerted nationwide effort had also been made to improve the civil rights of women: over the previous two years some 60,000 undocumented adult women had been registered, with birth certificates issued to them free of charge by 600 municipalities. For the current year, the target had been set at 100,000 documented adult women. In conclusion, she reaffirmed the resolve of the Government of Peru to place the rights of women at the centre of its public policies so as to ensure their due participation in decision-making bodies, convinced as it was that the empowerment of women and the full enjoyment of their rights would enable the country to achieve human development on a basis of equity and justice.

Articles 1 to 6

13. **Ms. Schöpp-Schilling** commended the Government of Peru for its timely reporting. She expressed appreciation of its ratification of the Optional Protocol

and asked the Government to accept the amendment to its article 20.1. She asked whether the reference in the Constitution to sexual differences, as noted in the report, concerned only men and women or whether the prohibition against discrimination also included discrimination on the ground of sexual orientation. She stressed that special temporary measures should not be considered discriminatory and wondered whether the legal relationship between the prohibition against discrimination and the adoption of such measures was made clear by the four laws establishing quotas, which she welcomed.

14. The measures described by the delegation did not always fall into the category of special temporary measures: the Committee's general recommendation No. 25 could provide valuable guidance in that regard. She wished to know whether the terms of equity and equality used in the report and the responses were considered equivalent; she understood the latter to mean equality in law and the former to mean fairness but not necessarily equal rights. She noted that in the responses (CEDAW/C/PER/Q/6/Add.1, p. 21), mention was made of the indigenous people's own worldview; such a worldview could be in conflict with the principles laid down in the Convention, in particular its article 5 (a), and could open the door to an undesirable form of cultural relativism whereby the rights of groups were given precedence over those of individuals.

15. **Ms. Pimentel** recalled that in 2002 the Committee had urged the Government to prosecute and severely punish the perpetrators of violence against women and to campaign to make such violence unacceptable in society at large. She wished to know what laws had been promulgated to protect women against the crime of domestic violence and punish offenders. According to a multi-country study carried out by the World Health Organization in 2002, 23 per cent of women in Lima and 47 per cent of women in Cusco had reported sexual violence by a partner; 15 per cent of women in Lima and 28 per cent had suffered physical violence during pregnancy. The Committee would appreciate information about the efforts being made to enforce the State's laws and policies and to address the issue of impunity and about any mechanisms in place to record and follow up cases of sexual and domestic violence.

16. **Mr. Flinterman** recognized the State party's efforts to promote de jure equality and equal

opportunity for women but wondered if those efforts had borne fruit in practice and stressed that the Convention required States parties to ensure substantive equality for women. In that context, he referred the delegation to the Committee's definition of the object and purpose of the Convention in its general recommendation No. 25. While he welcomed the State party's ratification of the Optional Protocol, he expressed concern that the State party had not complied with the views of the Human Rights Committee in the *Llantoy Huamán v. Peru* case involving refusal to perform a therapeutic abortion. He recalled that ratification implied a moral obligation to implement the recommendations of the human rights body to which an appeal had been made.

17. He had concerns about women's access to legal remedies if their rights were violated and wondered whether women had easy access to the justice system or whether cost was a factor and, if so, whether legal aid was available. He enquired about access for indigenous women in particular and about the availability of translation services for them. The delegation's written responses described a number of cases dealt with by the Deputy Defender for Women's Rights but he asked whether victims whose suit was not successful could appeal the decision to the ordinary courts. He was also concerned at information that he had received according to which Peruvian judges were reluctant to refer to international human rights treaties and humanitarian law and asked if judges and lawyers received training in the provisions of the Convention and other international instruments.

18. **Ms. Neubauer** said that she welcomed the strengthening of the Ministry of Women and Social Development and the State party's focus on gender equality as well as the formulation of the National Equal Opportunity Plan for Men and Women. She wondered whether any assessment had been made of the resources required for implementing and evaluating the Plan and requested information on the 2006 budget allocation for the Vice-Ministry of Women and gender-related programmes and on any increase planned for 2007. More information would also be welcome on the number of staff working at the Vice-Ministry and on women's programmes and on the sources of financial support available for implementing the Plan.

19. **Ms. Dairiam** said the National Equal Opportunity Plan for Men and Women clearly reflected international instruments, including the Convention.

She was however concerned at some of the terminology in the guiding principles of the Plan, such as “equitable”, “egalitarian”, “equity” and stressed that the Convention referred to equal rights. The State party had an obligation to clearly state its intention to promote full de facto equality and eliminate all forms of both direct and indirect discrimination.

20. She enquired whether the Plan: included specific indicators to evaluate whether de jure equal opportunity was leading to de facto equality for women; contained measures to eliminate direct and indirect discrimination at all levels of government and society, in both the public and private spheres; envisaged the use of temporary special measures to assist women, such as special funding and scholarships; and provided for the compiling of gender-disaggregated data. The delegation should indicate whether the Plan would be coordinated with the numerous other development plans in order to ensure a coherent approach to the promotion of women’s rights. Finally, in the absence of a specific law on gender equality, she asked what legal mechanism there was to compel Government ministries to achieve full gender equality, and what sanctions, if any, could be imposed for non-compliance.

21. **Mr. Chávez** (Peru), referring to traditional practices, explained that article 149 of the Constitution granted the peasant and indigenous communities the right to observe customary law within their territory provided they did not violate the fundamental rights of the individual. Customary law could not therefore be used to violate basic human rights guarantees. With regard to compliance with the recommendations of international bodies, he said that in practice compliance depended on the jurisdictional status of the body in question, although in principle his Government cooperated fully with such bodies. The Inter-American Human Rights Commission, for example, was viewed as non-jurisdictional; United Nations treaty monitoring bodies were considered to have a quasi-jurisdictional status; the Inter-American Court of Human Rights was considered fully jurisdictional.

22. While some recommendations posed problems with regard to application, that did not in any way diminish his Government’s commitment to human rights. All recommendations were thoroughly reviewed with a view to arriving at a practical resolution. In some cases there were bilateral mechanisms for follow-up; in the case referred to by Mr. Flinterman, he was

sure a practical resolution of the matter would be reached that would be in keeping with the spirit of the recommendation of the Human Rights Committee.

23. **Ms. Zapata** (Peru) said the terminology used in the National Equal Opportunity Plan for Men and Women should not raise concerns. The Plan’s purpose was clearly to bring about true equality and full empowerment and development for women and to ensure that they played their rightful role at all levels of society through the complete elimination of all forms of discrimination against them. Of course, it was not sufficient to merely adopt laws; those laws must be implemented and adequate resources allocated. All national, regional and local government departments were responsible for allocating resources to gender issues, developing indicators to measure progress made and collecting accurate gender-disaggregated data. She stressed that funding for women’s issues had increased. Every effort was being made to coordinate the National Equal Opportunity Plan with other national plans as well as with regional and local development plans in order to create a permanent gender-sensitive mindset at all levels of society, which took into account the needs of women as expressed by their representatives in their local communities. The National Plan contained baseline data to be used to measure progress towards achieving its objectives. Beginning in 2007, through observatories for women’s issues which would include representatives from government and civil society, real implementation of gender equality would be measured. Standards were also being developed to ensure that all forms of discrimination against women were eliminated.

24. She agreed that the figures on violence against women were appalling and that often there was no real justice for victims and perpetrators were lightly punished if at all. That highlighted the need to strengthen training and awareness-raising about gender issues in government administration and civil society so as to bring about a zero tolerance policy towards all forms of violence against women. All levels of government, with the assistance of international partners, were working to promote recognition of the plight of women victims and meet their needs, including for health care and rehabilitation, and to encourage women victims to come forward. In that regard, she confirmed that violence based on sexual orientation was also a prosecutable offence.

25. With regard to access to justice, women were free to register a complaint and were entitled to free

assistance from the Ministry of Women, the Ministry of Justice, in particular the Deputy Defender for Women's Rights, and the Bar Association. Although there were barriers such as language for indigenous women, translation services were increasingly available. Some Amazonian tribes were working to help their members deal with the justice system, and there were more indigenous people with legal training. As for the reluctance of judges to refer to international instruments, she agreed that was a mindset that needed to be corrected through continued training and awareness-raising about judges' right and even obligation to take into account international instruments.

26. **Ms. Schöpp-Schilling** welcomed the information regarding the indigenous people's right, pursuant to article 149 of the Constitution, to observe customary law provided that that did not violate fundamental human rights. She nevertheless enquired whether the indigenous people's view of equitable gender relations was in fact in keeping with the provisions of the Constitution and the Convention.

27. **Ms. Shin** asked what measures were being taken to rehabilitate women who had suffered in previous decades at the hands of the Sendero Luminoso insurgency. Investigation, prosecution and compensation were crucial to the continued eradication of violence against women in society. Was the Peruvian Truth and Reconciliation Commission dealing with all manifestations of violence against women during armed conflict, such as torture, forced disappearances, enslavement, forced pregnancy, marriage and sterilization, or were its investigations confined to rape? She would appreciate information on the current status of those investigations, including the number of cases prosecuted.

28. **Ms. Gabr** welcomed the fact that the report paid considerable attention to the Committee's previous recommendations. It was surely a euphemism, however, to describe the situation of violence against women as "not good", when in fact it was extremely grave, hampering the Government's other initiatives to improve the status of women. Legislative and other measures would always remain insufficient without a concerted effort to raise public awareness, especially in rural areas. It was also vital to strengthen the criminalization of all manifestations of violence against women, including the crime of incest. The delegation might also comment on the role of the

Catholic Church in that connection. She was also concerned that women in cities and rural areas should enjoy equal access to legal remedies.

29. **Ms. Saiga** requested more substantive information on Peru's new anti-trafficking legislation and on the situation of adult women victims of trafficking.

30. **Ms. Zapata** (Peru) said that the overall situation was complicated by the fact that Peru had no fewer than 72 ethnic and 14 linguistic groups, each requiring a specific approach. However, no exceptions were made as far as gender equality was concerned, including in respect of community laws. The Equal Opportunity Plan for Men and Women prevailed over all other plans in terms of the implementation of women's rights, and a draft law on equal opportunities was currently before the country's parliament.

31. On the matter of funding, the budgetary allocation for the Vice-Ministry of Women remained insufficient, but had at least been increased by 16 per cent in 2007. It was to be hoped that existing resources would be further supplemented by international donors and civil society. Currently, the Ministry of Women and Social Development had some 4,000 staff, with 25 per cent of resources allocated to the Vice-Ministry of Women.

32. Violence against women was embedded in all levels of society, requiring a concerted response at both the local and national levels. The issue was now being addressed as a State priority and although progress was slow, it was at least in evidence. A social fund had been established with a special focus on violence, and mining companies had contributed some 500 million soles to it. She wished to stress that Peru was a secular State, although the moral influence of the Catholic Church was strong. The criminalization of violations of women's rights had to be governed by legislation.

33. The reach of national awareness campaigns now extended to remote rural areas, with a focus over the past two years on indigenous communities in marginal Andean and Amazonian areas. However, all 24 departments of Peru must be brought on board if impunity for violence against women was to be fully eradicated. She was pleased to announce that November 2006 had been designated month of non-violence against women in Peru, with the active participation of the media.

34. **Mr. Chávez** (Peru) said that awareness campaigns were being implemented to tackle the cultural roots of women's resistance to reporting acts of violence. The State was not equally present in all parts of the country, but programmes were increasingly reaching the remotest indigenous areas. As for the crime of incest, it was covered by the sanctions detailed in Peru's written responses (CEDAW/C/PER/Q/6/Add.1). If the victim was a minor, the maximum penalty under the country's legal system was life imprisonment.

35. **Ms. Pimentel** said that, according to non-governmental sources, the heinous crime of incest was far more extensive in Peru than official data suggested. A survey of incarcerated rapists had concluded that the men had no idea that they were doing anything wrong to their daughters. What was the Catholic Church doing to raise awareness of the problem?

Articles 7 to 9

36. **Mr. Flinterman**, noting that a new law had been passed requiring foreign-funded NGOs to report on their activities to the Government, asked what impact it might have on women's enjoyment of their right to participate in non-governmental organizations under article 7 (c) of the Convention. With regard to article 9, he was concerned to read in paragraph 88 of the report that a fairly constant proportion of women were not registered and therefore had no formal name and nationality. From a legal point of view, those women might be "nobodies", but from a human rights point of view, they were human beings. What was being done to accelerate their registration, particularly in the remoter rural areas?

37. **Ms. Neubauer** welcomed the progress made with regard to the political participation of women, particularly in Congress and in the Government. Referring to paragraph 70 of the report, which contained information about women in the judiciary, she said that she assumed that it had been included under the heading "Political participation" as a result of an oversight, and that participation in the judicial system was not seen as a form of political participation. It was a matter of concern that most female prosecutors worked on family law matters, which reinforced the stereotypical association of women with caring roles. In the next report, she would like to see more information on the participation of

women in the judiciary, including a breakdown of numbers at each level of the system.

38. **Ms. Coker-Appiah** also commended the progress made with regard to the participation of women in politics, but requested more information on participation in the civil service, the judiciary and other areas of the public sector. Such information should be disaggregated by ethnicity so as to provide an accurate picture of the situation of all women in Peru. Turning to the question of nationality, she asked whether women had the same right as men to pass their nationality on to their children and also whether undocumented women could pass on nationality. If not, steps should be taken to remedy that situation as soon as possible. She also wished to know whether foreign husbands of Peruvian women had the same rights with regard to residence and nationality as foreign wives of Peruvian men.

39. **Ms. Shin** echoed Mr. Flinterman's concern about the compulsory registration of NGOs that received foreign funding. Civil society, especially women's NGOs, played a crucial role in implementing the Convention and disseminating information about it. Governments should therefore work in partnership with NGOs and should not place restrictions on their activities.

40. Noting that the introduction of quotas had increased the number of women in Congress, she suggested that similar targets for female representation, with time frames for achieving them, should be applied to the judiciary and the Administration. In particular, specific targets should be set for the number of women in decision-making positions. She requested statistics on the number of women currently in such positions in the Government and the judiciary and the number of women prosecutors and judges in courts at all levels, including the Supreme Court. The Committee also wished to know what steps the State party planned to take to increase those numbers. Lastly, she asked whether Government ministries had committees attached to them in which civil society representatives could participate and, if so, what their current status was. Such committees could be a means of boosting the involvement of women in political life.

41. **Ms. Zapata** (Peru) said that NGOs had been required to register for some time. The new law was merely intended to make the process more transparent. With regard to the question of nationality, she said that

the 2005 census had confirmed that more than 1 million people had no identity documents. If a woman had no documents proving Peruvian nationality, she could not pass on her nationality to her children. Lack of identity documents hampered the enjoyment of many other basic rights, such as the right to education.

42. The Government was committed to addressing that problem with a plan to document all women within five years. In addition, to reduce the number of undocumented persons — 6 per cent of births were currently not registered — the Government planned to introduce free registration of births. Each person would also be issued with a unique identity code so as to simplify administrative procedures throughout his or her life. Roving campaigns would be conducted in the areas with the largest numbers of undocumented people.

43. She agreed that it was important to have full statistics on the number of women in decision-making positions. The Government was working on improved data collection. The post of Attorney General had twice been held by a woman. Gender quotas were being extended to regional and local government. Women were also being encouraged to participate in multisectoral round tables involving civil society, trade unions, professional bodies, municipalities and the media at the local level.

44. **Mr. Chávez** (Peru) said that the Constitution provided that, for the recognition of Peruvian nationality, registration of birth was secondary to the fact of birth. The fact that a birth was not registered did not invalidate the right to nationality. Peruvian parents, including those who had migrated abroad, had the right to pass on their nationality to their children. The network of Peruvian consulates in foreign countries was being strengthened in order to provide assistance to Peruvian emigrants in such matters. All foreign spouses of Peruvian nationals were equal before the law and had the same rights, irrespective of their sex.

45. **Ms. Coker-Appiah** asked whether children born in Peru automatically had Peruvian nationality or whether one of their parents must also have Peruvian nationality in order to pass it on.

46. **Mr. Chávez** (Peru) said that all children born in Peru automatically had Peruvian nationality. Children born abroad to Peruvian parents who had no identity documents were still considered Peruvian; the problem

was merely one of registration, which could be addressed through administrative channels.

Articles 10 to 14

47. **Ms. Pimentel** asked what action the Government was taking to provide comprehensive reproductive health services, including access to family planning services and contraception, to all women, especially less educated and rural women. The Committee also wished to know how the Government held health-care providers accountable for physical and psychological violence and discrimination against women in the health-care setting and what measures were being taken to improve quality of care. She asked whether efforts had been made to raise awareness among women of their rights as health-service clients or to enact a law protecting women's health rights and also requested information about the results of the measures which the Government had pledged to take with regard to forced sterilization.

48. She asked what action had been taken to educate women about emergency contraception and to ensure the free distribution of emergency contraceptives, especially among rural women and teenage girls. Where emergency contraception had to be paid for, had steps been taken to control prices? Lastly, she would like to know what action had been taken to address the consistently high maternal mortality rate, especially among rural women and adolescent girls.

49. **Ms. Dairiam** expressed particular concern about the health status of adolescents. She asked what the mortality rate among teenage mothers was and what the causes of such deaths were. Given that the National Plan of Action for Children and Adolescents had not yet led to a significant reduction in the number of teenage pregnancies or in the teenage maternal mortality rate, she enquired whether the Government had analysed the reasons for the lack of progress and what measures it planned to take to change the situation. With regard to the *Llantoy Huamán v. Peru* case that had come before the Human Rights Committee, she asked what steps had been taken to provide a remedy to the victim. The State party was obliged, under the International Covenant on Civil and Political Rights, to remedy violations of rights, even if it did not accept the specific means of redress recommended by the Human Rights Committee. Lastly, the Committee wished to know whether the Comprehensive Health Insurance System allowed all

categories of women, in particular those from ethnic minorities, to gain access to health care.

50. **The Chairperson**, speaking as a member of the Committee, asked whether teenagers could obtain contraception without parental approval and whether pregnant teenagers were able to continue their education.

The meeting rose at 1 p.m.