

OBSTACLES TO THE ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES FOR GIRLS AND ADOLESCENTS VICTIMS OF RAPE

Recommendations of the 2nd cycle of the UPR:

N.º 116.97 Adopt and implement a national protocol to guarantee equal access to therapeutic abortion for women and girls as part of sexual and reproductive health services (Finland)

N.º 116.98 Adopt the necessary measures to inform women and girls about their rights related to access to sexual and reproductive health services, including the possibility of abortion, as established by domestic legislation (Mexico)



Implementation of the recommendations:

ACCESS TO EMERGENCY ORAL CONTRACEPTION (EOC) IN PUBLIC SERVICES

In 2012, the State agreed to implement the recommendations related to guaranteeing access to sexual and reproductive health services. However, since 2009, due to a Constitutional Court judgment, access to emergency oral contraception (EOC) in public establishments is prohibited, even for victims of rape. But its sale in private pharmacies is not prohibited. Since August 2016, the provision of EOC in public services is temporary because of a *precautionary measure* ordered by the First Constitutional Court of Lima, in the framework of a process for the protection of fundamental rights (amparo) submitted by a Peruvian citizen.

As part of the compliance with this *precautionary measure*, according to the Ministry of Health (MINSA), from August 2016 until the end of March 2017, 31120 blister packs of levonorgestrel 0.75 mg. were distributed. However, this distribution did not take place in 10 departments: Amazonas, Huancavelica, Huánuco, Moquegua, Pasco, Piura, Puno, Tacna, Tumbes and Ucayali. Similarly, MINSA has reported that during the year 2016 and until March 2017, **while 2832 girls and adolescents between the ages of 12 and 17, who were victims of rape, had access to public health services, only 26 accessed to the EOC or some other method of contraception.**

INADEQUATE IMPLEMENTATION OF THE THERAPEUTIC ABORTION PROTOCOL AND ITS UNAVAILABILITY FOR RAPE VICTIMS WHOSE PREGNANCIES RISK THEIR LIVES OR HEALTH

In 2012, the State agreed to adopt and implement a Therapeutic Abortion Protocol. However, although it was approved in 2014, in practice **it is not guaranteed to victims of rape whose pregnancies clearly risk their lives and mental, physical and social health, mainly in the case of girls and adolescents. One of the challenges for its effective implementation is that the Protocol only standardizes the treatment of women with pregnancies up to 22 weeks of gestation, even if the Criminal Code does not establish this time limit. Thereby, it arbitrarily reduces access to these services.**

In Peru, **30% of cases of maternal mortality have indirect causes¹** (non-obstetric causes due to other diseases) and it is observed that 14.9% of the deceased women were adolescents between the ages of 12 and 19. However, these deaths **could have been avoided if these women had access to therapeutic abortion**, because their pregnancies worsened their health and risked their lives. Likewise, during 2016, there were 85 childbirths performed amongst girls under the age of 11 and 404 in adolescents between the ages of 12 and 17². From January to March 2017, there were 12 childbirths performed in girls under the age of 11 and 6,516 in adolescents between the ages of 12 and 17³. In 2017 there were 2 cases in the media regarding **girls who were raped by relatives and could not access health services to prevent or terminate a pregnancy that risked their lives**

¹ MINSA. National Center for Epidemiology, Prevention and Control of Diseases. Available at: <http://www.dge.gob.pe/portal/docs/vigilancia/sala/2017/SE33/mmaterna.pdf>

² Communication N.º 08-2017-SIS/OGIIT OGIIT from the Comprehensive Health Insurance from the Ministry of Health. In response to a request to access public information submitted by PROMSEX on April 24 of this year.

³ Ibidem.

or health. In Jaén (Cajamarca) a 10-year-old girl, raped by her uncle, became pregnant. In August 2017 it was known that she was at 6 months of gestation. *“It is a high-risk pregnancy. A 10-year-old girl is not prepared for a pregnancy. Her uterus, her pelvis and her organs are not ready to carry a baby”*, said the Dean of the Medical School of Cajamarca⁴. Nevertheless, when asked about the possibility of therapeutic abortion, the Dean said: “According to the law, it can be done. However, it is still an open debate”. This demonstrates the restrictive interpretation of the guarantee of therapeutic abortion and the absence of a rigorous analysis on the impact of pregnancy in the life or health of pregnant girls. Additionally, in La Libertad, a 13-year-old girl became pregnant after systematic rapes performed by her brother-in-law. Due to the lack of family support, her teachers reported the events: *“‘You’re going to have a baby’, I told her. Then the child hugged me and the only thing she was asking was: ‘Teacher, help me. I don’t want my belly to grow’ (...)”*, said the teacher⁵. However, she also did not have access to therapeutic abortion and continued with her forced pregnancy.

In addition to all of this, Bill 387-2016/CR, which proposes **the decriminalization of abortion in cases of rape**, is still **pending discussion** in the Congress of the Republic, **despite the fact that in 2011 the CEDAW Committee established the international responsibility of the State in the case of L.C. vs. Peru**. This case stipulated as a preventive measure the decriminalization of abortion in cases of rape. This recommendation has not yet been implemented by the State.

Recommendations suggested for the 3rd cycle of the UPR:

- Ensure access to sexual and reproductive health services and comprehensive sex education, according to the commitments established in the *Montevideo Consensus on Population and Development and the Sustainable Development Goals 2030 N°.3 (Health and Well-being) and N°.5 (Gender Equality)*.
- Ensure permanent access to information on, and distribution of, the emergency oral contraception (EOC) in public health services, including victims of rape.
- Ensure the availability of therapeutic abortion for girls and adolescent victims of rape whose pregnancies affects their lives physically, mentally and social health; and complement the Therapeutic Abortion Protocol with the standardization of the procedure for pregnancies beyond the 22 weeks.
- Decriminalize abortion when pregnancy is the result of rape, in order to avoid forced pregnancies and motherhoods.
- In accordance with what is set forth in the *National Plan on Human Rights 2012 – 2014*, the State shall submit a report from the World Health Organization (WHO), the Pan American Health Organization (PAHO), or a specialized organization of international prestige, in regard to the effects of the EOC and, on this basis, adapt its public policy.

Questions suggested for the 3rd cycle of the UPR:

- What measures are being implemented to decriminalize abortion in the case of women who become pregnant because of rape?
- Why does the National Technical Guide of therapeutic abortion only standardize the procedure of comprehensive treatment for pregnant women with less than 22 weeks of gestation if Article 119 of the Criminal Code does not establish this time limit?
- Why, despite being a commitment of the National Plan on Human Rights 2014-2016, has the State not yet requested to the WHO, PAHO, or a specialized organization of international prestige, to inform on the effects of the emergency oral contraception (EOC) in order to adapt, on this basis, its public policy?

⁴ Available at: <http://elcomercio.pe/peru/cajamarca/nina-10-anos-embarazada-recibe-atencion-medica-jaen-noticia-447669>

⁵ Available at: <http://peru21.pe/actualidad/menor-13-anos-queda-embarazada-violada-sistematicamente-cunado-60-anos-2291740>

SITUATION OF SEXUAL AND REPRODUCTIVE RIGHTS DEFENDERS

Recommendation accepted by the Peruvian State in the 2nd cycle of the UPR:
N.º 116.72 Continue efforts to protect human rights defenders from threats and intimidation to ensure they can perform their functions properly (Australia)



Implementation of the recommendation:

In 2012, during the 2nd Cycle of the UPR, the State accepted a recommendation on the protection of human rights defenders. However, in the last five years, no legislative nor public policy measure has been approved nor implemented in this respect, even though attacks on human rights defenders have been intensified, especially against those who defend sexual and reproductive rights, the rights of LGBTI persons and their organizations. Until this moment there is not a Plan of Human Rights until one year ago.

Campaigns of defamation, slander and stigmatization that exceed the limits of freedom of expression and infringe the right to honor and good reputation of human rights organizations and their members.

In recent years, due to the context of discussion on the decriminalization of abortion in cases of rape, several organizations, including Promsex, have been systematically attacked for their work in the defense of the right of women to decide.

Media with an openly confessional editorial line carried out a **campaign of stigmatization, defamation, slander and public discredit of various organizations that defend sexual and reproductive rights**. The organizations were signaled as “advocates for the dismemberment of innocent children”¹, in reference to abortion, and they were accused of the crime of corruption of authorities indicating that they are “salaried employees that corrupt local authorities”².

Political persecution of sexual and reproductive rights organizations.

In 2015, the Commission of Foreign Affairs of the Congress encouraged the oversight of organizations that received funds from international organizations, with special emphasis on those who work on the decriminalization of abortion in cases of rape. “*One cannot remain indifferent in the face of an initiative that promotes the murder, the crime of innocent people. The Congress can investigate, but the Judiciary must warn if there is a crime*”, said the Congresswoman heading that Commission³. However, access to international funding is legal.

Thus, for example, public servants from the Peruvian Agency for International Cooperation (APCI) initiated an **ex officio** oversight of Promsex’s project “Access to sexual and reproductive health care from a rights-based approach in Peru: Reducing the stigma and strengthening the debate”, known as the campaign “Déjala Decidir” (Let her decide).

¹ Available at: <https://www.aciprensa.com/blog/los-corsarios-del-aborto/>

² Available at: <https://www.aciprensa.com/noticias/lobby-del-aborto-en-peru-intenta-ocultar-vinculo-con-planned-parenthood-85837/>

³ Ibidem.

Threats to human rights defenders that endanger their lives and integrity.

In 2016, through Ministerial Resolution 281-2016-MINEDU, the National Basic Education Curriculum was approved; it includes a gender equality approach and promotes non-discrimination based on sexual orientation in schools.

However, in recent months, political leaders and religious fundamentalist groups have objected its implementation, forming a citizen group called “Con Mis hijos No Te Metas” (Don’t mess with my children)⁴. This has led to a direct impact on the organizations that defend sexual and reproductive rights and the rights of LGBT persons. Three (03) human rights defenders that conducted defense functions of this public policy in the media were harassed in the streets and threatened with death and rape⁵ by members of this group.

Recommendations suggested for the 3rd cycle of the UPR:

- Create a *Special Directorate* in the Ministry of Justice and Human Rights entrusted with the design and implementation of the public policy for the protection and defense of human rights defenders.
- Elaborate protocols with gender approach for the protection of human rights defenders.
- Prevent the stigmatization of human rights defenders. Investigate and sanction State agents who support, promote or facilitate acts of stigmatization, as well as those who make statements that stigmatize human rights defenders.

Questions suggested for the 3rd cycle of the UPR:

- **What are the comprehensive mechanism that the States has to ensure that the work of human rights defenders is protected from violence?**
- **Why there is not a Plan of Human Rights until one year ago?**

⁴ **Con mis hijos no te metas** (Don't mess with my children) is a Peruvian association that appeared in 2016 and its main goal is to ensure that the Peruvian government eliminates the current National Curriculum 2017 that, according to its position, “promotes the controversial gender ideology, which would generate a sexual identity disorder” among students. According to its leaders, gender ideology is part of a conspiracy by the New World Order to “homosexualize” the country, disrupt the family unit and make individuals obedient to the government. Although they have claimed that their goal is not political nor religious; their association is mainly represented by evangelicals and members or supporters of political parties.

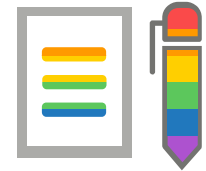
⁵ Available at: <http://larepublica.pe/impres/sociedad/854284-defensoras-del-curriculo-escolar-son-amenazadas-de-muerte> and <http://exitosanoticias.pe/defensoras-del-curriculo-nacional-reciben-amenazas-de-muerte/>

VIOLENCE AND DISCRIMINATION AGAINST LESBIAN, GAY, BISEXUAL AND TRANS (LGBT) PERSONS

Recommendations of the 2nd cycle of the UPR:

N.º 116.15 Consider enacting legislation that addresses crimes based on sexual orientation (Canada)

N.º 116.32 Consider applying the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity as a guide to assist in policy development (Slovenia)



Implementation of the recommendations:

In 2012, the Peruvian State committed to legislate to prevent violence against LGBT persons. However, after 5 years, the situation of LGBT persons has worsened in the following aspects:

A) Impunity of violence and discrimination, and increase of institutional violence that may constitute Torture, Cruel, Inhuman or Degrading Treatment.

During the period of 2015 - 2016, there were cases of discrimination perpetrated **by police officers and municipal security agents¹ in public spaces**, in order to expel non-heterosexual couples and repress their displays of affection by stating that “they are inappropriate for children” or that “it is not normal to kiss another man”². There were also reports of **damages of personal security, where trans women linked to sex work were the main victims of state agents (24 cases), including systematic practices such as** arbitrary arrests, beatings and transportation to desolated places, theft and sexual violence, all without sanction. In 2017, it was known that various municipalities of the city of Lima implemented a *citizen security* policy the “eradication of homosexuals” in the public highway³.

Nevertheless, there is no specific national policy to prevent, register, investigate and sanction discrimination and violence against LGBT persons, including acts perpetrated by state agents, which may constitute torture. **Although the Executive Branch amended the Criminal Code to sanction hate crimes through aggravating factors (Art. 46.d) and to include sexual orientation and gender identity as prohibited grounds of discrimination (Art. 323), the Plenary Assembly of Congress of the Republic adopted the repeal of these modifications.**

B) The need to prevent and sanction hate speech that incites violence.

In recent years, there has been an increase in hate speeches from Evangelic Christian churches and Evangelic pastors who, in some cases, are also public officials¹. In 2017, the leader of the Worldwide Missionary Movement encouraged his community to mobilize against non-discrimination measures adopted by the Ministry of Education (MINEDU), instigating violence against lesbian women: “*If you find two women having sex, kill them both (...), in the name of Jesus*”, he indicated”¹. Likewise, a pastor, in an event of Coordinadora Cívica Cristiana Pro Valores, expressed the following: “*(...) if a homosexual person is going to have rights (...) it is going to legalize sodomy*”.

These speeches have had an impact on the protection of the rights of LGBT persons. **The Executive Branch amended the Criminal Code and eliminated the crime of incitement to discrimination, which was the only guarantee to denounce them.** In addition, the MINEDU **eliminated the term gender identity from the National Basic Education Curriculum⁴.**

¹ Security personnel in municipalities.

² Available at: <http://elcomercio.pe/lima/homofobia-san-isidro-serenos-botan-pareja-via-publica-275541>, <http://larepublica.pe/reportero-ciudadano/882833-pareja-homosexual-acusa-de-discriminacion-policias-en-miraflores>

³ Available at: <http://elcomercio.pe/lima/sucesos/discriminacion-municipal-distritos-contemplan-erradicacion-homosexuales-noticia-457704>

⁴ Available at: <http://elcomercio.pe/peru/minedu-modifica-curriculo-nacional-educacion-basica-143728>

C) School violence and fundamentalist opposition that jeopardizes policies that promote schools free from violence and discrimination for LGBT students.

In 2016, the Ministry of Education⁵ approved the National Basic Education Curriculum with a gender equality approach and prohibited discrimination based on sexual orientation, **thus fulfilling the recommendations of the 2nd cycle of the UPR**⁶. However, fundamentalist groups such as “*Con mis hijos no te metas*”⁷ (Don’t mess with my children) opposed these measures under the mistaken idea that the aim of the curriculum is to impose the ‘gender ideology’, to ‘homosexualize’ or to ‘indoctrinate’ children and to distort the concepts of man and woman⁸. The pressure exerted by this group prompted the group called “Padres en Acción” (Parents in Action) to present a Class Action lawsuit⁹ to have the Curriculum declared unconstitutional. **As a result, the First Civil Chamber of the Superior Court of Justice of Lima deleted the following paragraph from the conceptualization of the Gender Equality approach: ““While what we consider feminine or masculine is based on a biological sexual difference, these are concepts that we develop day to day, in our interactions”, considering that this “projects a vision and concept of sexuality that goes beyond the natural conception”, based on the biological difference**¹⁰. On the other hand, in the Congress of the Republic, three bills¹¹ aim to: (a) modify the General Education Act, so that the implementation of the Curriculum requires the prior and binding approval of parents; (b) eliminate the term “sexual orientation” from the Curriculum and the Guidelines for Comprehensive Sexual Education for Teachers; and (c) nullify the complete National Curriculum to develop a new one.

Recommendations suggested for the 3rd cycle of the UPR:

- Include sexual orientation and gender identity as prohibited grounds of discrimination in Article 323 of the Criminal Code, as well as criminally sanction hate speeches that incite violence, with aggravated punishments in the case of public officials.
- Incorporate in the Crime Observatory of the Office of The Attorney General and the Statistical Yearbook of the National Police Force a detailed record of violence and discrimination acts against LGBT persons.
- Implement specialized protocols for the attention, investigation and judgment of cases of violence and discrimination against LGBT persons, especially in cases regarding children and adolescents.
- Include in the System Specialized in Reports on Cases of School Violence (SiseVe Program) the possibility to denounce violence and discrimination based on gender identity.
- Implement the National Basic Education Curriculum published in the year 2016 without making modifications that eliminate the approach of gender equality and non-discrimination based on sexual orientation.

Suggested questions for the 3rd cycle of the UPR:

- **What are the measures being taken by the State to implement the gender equality approach and to eliminate discrimination based on sexual orientation and gender identity in schools?**
- **What measures have been taken to eliminate any strategy that mentions “eradication of homosexuals” from municipal citizen security plans?**

⁵ Approved by Ministerial Resolution 281-2016-MINEDU published on June 02, 2016.

⁶ Recommendation N°. 116.31 Eliminate effectively gender-based discrimination in the access to education and health care, particularly in rural areas and among indigenous communities. (Slovakia)

⁷ **Con mis hijos no te metas** (Don’t mess with my children) is an association that appeared in 2016. Its aim is to ensure that the Peruvian government eliminates the current National Curriculum 2017 that, according to its position, promotes the gender ideology, which would generate a sexual identity disorder” among students. According to its leaders, gender ideology is part of a conspiracy of the New World Order to “homosexualize” the country, disrupt the family unit and make individuals obedient to the government. Although they claim that their goal is not political nor religious; their association is mainly represented by evangelicals and members or supporters of political parties.

⁸ LEÓN, Jesica and LEYTON, Fernando. “Un intenso debate: ¿ideología de género o educación integral?” (A heated debate: Gender ideology or comprehensive education?). In *La República*, published on January 25, 2017. Available at: <http://larepublica.pe/impres/sociedad/842614-un-intenso-debate-ideologia-de-genero-o-educacion-integral>

⁹ The Class Action proceeds due to infringement of the Constitution and the law, against regulations, administrative rules, resolutions and decrees of a general nature, regardless of the authority from which they arise.

¹⁰ FIRST CIVIL CHAMBER OF THE SUPERIOR COURT OF JUSTICE OF LIMA. Docket: 11-2017-0-1801-SP-CI-01. Sentence (Resolution N°. 30) dated July 13, 2017, considering the SIXTEENTH.

¹¹ Bills N°. 1008/2016-CR, 1043/2016-CR and 1073/2016-CR. These bills were submitted by the political parties Acción Popular and Fuerza Popular during the month of March 2017.

PREGNANCY AND MATERNAL MORTALITY IN GIRLS AND ADOLESCENTS

Recommendation of the 2nd cycle of the UPR:

N.º 116.94 safeguard women's access to health care and improve reproductive health services.

(Iraq)

N.º 116.93 Continue the action to reduce maternal and infant mortality (Sri Lanka)

N.º 116.95 Ensure access to sexual and reproductive health services for Adolescents (Slovenia)



Implementation of the recommendation:

During the 2nd cycle of the UPR, the State committed to improve reproductive health services and access to them; however, there has not been significant progress, especially aimed on children and adolescents.

Pregnancy in childhood and adolescence as a matter of human rights and gender inequality: school dropout, state of poverty and impact on health, life and life project.

In the country, the **Multisectorial Plan for the Prevention of Adolescent Pregnancy 2013-2021** is being implemented since the year 2013. However, according to ENDES¹ 2016, 13 out of every 100 adolescents between the ages of 15 and 19 are already mothers and/or are pregnant for the first time, a figure that has not change in the last 20 years. In 2016, **the highest percentages of adolescents between the ages of 15 and 19 who were already mothers or were pregnant for the first time can be seen in women with primary education (42.3%), women in the lowest quintile of wealth (23.9%), women who reside in rural areas (22.7%) and who reside in the Rainforest of the country (23.3%).** It is also known that more than half (59%) of the adolescents who are already mothers or are pregnant for the first time, did not wanted to be. By comparison, it is known that less than 1% of male adolescents of the same age are parents².

Likewise, the Comprehensive Health Insurance (SIS) reports annually **2 thousand childbirths performed in girls between the ages of 11 and 14.** These pregnancies portray the high vulnerability of girls victims of sexual violence and the lack of prevention and protection mechanisms against sexual violence.

An alarming data from RENIEC is that the age of **the fathers of newborns registered in the year 2015, whose mothers had between 11 and 14 years of age, were in 71% of the cases older than 18 years of age**³.

This situation represents a public health problem and endangers the lives of girls mothers, because it compromises their health, and even the fetus' health, since the pregnant girl or adolescent still does not have sufficient physical and emotional maturity. According to the Report of the State of World Population 2013 published by UNFPA, **"(...) mothers under the age of 16 years are four times more likely to die than women older than 20 years of age (...) the greatest risks are premature labor, preeclampsia and low birth weight in newborns"**⁴.

¹ NATIONAL INSTITUTE OF STATISTICS AND COMPUTER SCIENCE. National and Regional Demographic and Family Health Survey 2016.

² UNFPA (2015) Information sheet about adolescent pregnancy in Peru.

³ Team for the Coordinated Monitoring of Health Policies - Sub Group "Prevention of Adolescent Pregnancy" - Report N°. 4-2016-SC/MCLCP PREVENTION OF ADOLESCENT PREGNANCY.

⁴ Available at: <http://www.unfpa.or.cr/index.php/documentos-y-publicaciones-14/informes-unfpa-mundiales-y-nacionales/184-informe-estado-de-la-poblacion-mundial-epm-2013/file>

Lastly, governmental sources indicate that **in 2013, 8 out of every 10 adolescents that were pregnant at some point did not attend an educational center (85.2%)**. The most frequent reasons of non-attendance to school in the country are pregnancy or marriage (45.9%), followed by economic reasons (22.1%)⁵. Likewise, in 2015 a study found that 77% of pregnant adolescents dropped out of school and 94% is dedicated to housework. If we add the restricted financial support of their partners and family, it limits young women's development of a life project and prolongs the cycle of poverty in which they live.⁶

Maternal mortality in girls and adolescents.

On the national level, maternal death in adolescents is increasing. In 2012, it was 17.6% and **only until the month of August 2017, 14.9 % of the deceased were girls and adolescents between the ages of 10 and 19**⁷.

The **main direct causes of maternal deaths in adolescents include:** hypertension induced by pregnancy (41%), **abortion (29%)**, bleeding (18%) and infection (6%). Likewise, it is known that **the main indirect cause of maternal deaths in adolescents is still suicide (56%)**⁸.

Recommendations suggested for the 2nd cycle of the UPR:

- Ensure the implementation of comprehensive education on sexuality in all spaces in order to expand the prospects of girls and adolescents, but especially to empower them in the knowledge and usage of their sexual and reproductive rights.
- Ensure access to sexual and reproductive health information and services for adolescents, including access to modern contraceptive methods.
- Design and implement a National Plan to address maternal death, including girls and adolescents.

Questions suggested for the 2nd cycle of the UPR:

- What measures is the State taking to comply with what has been stated by the National Plan of Action for Childhood and Adolescence 2012-2021 and the Multi-Sectorial Plan for the Prevention of Adolescent Pregnancy to increase and guarantee access to adequate sexual and reproductive health information and services for adolescents and the reduction of adolescent pregnancy?
- What measures is the Peruvian Government taking in regards to the increase of maternal mortality in girls and adolescents?
- What plan does the Government have to ensure the full realization of the right to sexual education based on scientific evidence for adolescents and children in Peru? How does it plan to ensure that a program with these characteristics has all the funding and resources needed to ensure its sustainability, as well as human resources for its implementation?

⁵ State of the Peruvian population INEI 2014.

⁶ Távara, Luis et al. (2015) Promsex. Peru "Impact of pregnancy on the health of adolescent girls".

⁷ National Center for Epidemiology, Prevention and Control of Diseases - Ministry of Health (MINSA). Available at: <http://www.dge.gob.pe/portal/docs/vigilancia/sala/2017/SE33/mmaterna.pdf>

⁸ Maternal and Neo-natal Health Task Force. Assessment Report of 2012. Available at: <http://www.midis.gob.pe/dgsye/data1/files/enic/eje1/documentotecnico/MCLCPSeguimientoPPRSaludMatNeonl2012.pdf>

THE SITUATION OF HUMAN TRAFFICKING WITH PURPOSES OF SEXUAL EXPLOITATION AND ITS IMPACT ON GIRLS AND ADOLESCENTS

Recommendation of the 2nd cycle of the UPR:

N.º 116.42 Improve coordination on trafficking in persons (TIP) investigations, increase funding for TIP victim services, implement programs to combat the worst forms of child labour and forced labour. (United States of America)

N.º 116.21. Continue to allocate appropriate budget and resources to address challenges such as trafficking in persons, sexual exploitation of children and extreme poverty in rural areas and establish a targeted timeframe for implementing related plans and programs. (Thailand)



Implementation of the recommendation:

In 2012, the Peruvian State agreed to implement the recommendations made by the United States and Thailand. However, there are no advances in the comprehensive support for victims of trafficking. In Peru, the main victims of sexual exploitation are girls and adolescents. In 2014¹, 34.9% of the victims were girls and adolescents, forced to provide services in brothels and to be female escorts in pubs. In 2016, 127 victims were girls, boys and adolescents, and there were 96 reported cases of sexual exploitation in nightclubs or brothels².

Assistance to victims of trafficking in the area of health.

Even though the recommendation from the US emphasized the need for assistance to victims, **the main advances of the State with regard to human trafficking have been focused on prevention and prosecution, and very little in the care and protection of victims.** Thus far, **there is no budget nor a Health Care Protocol** that would ensure the assistance to victims, families and witnesses³, mainly in the area of mental, sexual and reproductive health.

Because of this, in the year 2016, the Committee on the Rights of the Child recommended to the Peruvian State to **ensure that boys and girls who are victims of sexual exploitation receive appropriate assistance, especially for their physical and psychological recovery and their full social reintegration**⁴.

Prosecution with a gender approach to avoid impunity.

Even though in 2014 the CEDAW Committee recommended to the Peruvian State to “24) b) **Strengthen the capacity of judiciary officials, law enforcement officials and border officials (...) to assist the victims of trafficking with due regard to gender issues**”⁵, this has not been achieved. In 2014, the Permanent Criminal Chamber of the Supreme Court of Justice issued the Appeal for Annulment N.º. 2349-2014, which confirmed the acquittal of a woman accused of human trafficking and whose victim was a 14-year-old girl recruited to work as an “escort” in a pub in the mining area of Mazuko in Madre de Dios⁶.

The **Chamber considered that there was no labor exploitation since “being an escort (...), is not a labor that would exhaust the strength of the worker”; nor sexual exploitation because she was only told once to have sex with customers.** This discriminatory judgment ensured the impunity of the accused by providing a sentence based on gender bias on victims of sexual exploitation. Albeit the judges were reported to the National Council of Magistrates (CNM) for engaging in manifestly discriminatory treatment in the exercise of their position and not prompting the court decision, **the CNM did not sanction the magistrates because it did not consider that there were reasons to do so.**

¹ Office of The Attorney General. Official Communication N.º. 685-2015-MP-FN-OBSERVATORIO Request to Access Public Information regarding human trafficking complaints in the years 2013, 2014 and 2015 (2015)

² National Police Force of Peru. Statistical Yearbook 2015, page

³ CHS Alternativo 2015 Third Report: Assessment from the Civil Society on the Situation of Human Trafficking in Peru 2014 – 2015, page 74.

⁴ Concluding observations on the report submitted by Peru under Article 12, paragraph 1, of the Optional Protocol of the Convention on the Rights of the Child regarding the sale of children, child prostitution and child pornography (2016), paragraph 34.

⁵ CEDAW Committee. Concluding observations on the combined 7th and 8th periodic reports of Peru (2014)

⁶ Available at: <http://elcomercio.pe/peru/madre-de-dios/polemica-sentencia-villa-stein-trata-menores-257053>

Situation of vulnerability and revictimization in the Residential Care Centers (CAR) for victims of trafficking.

According to a national study⁷, the model of assistance applied in CAR centers infringes public policies aimed at the no revictimization. Many of the victims are admitted into a CAR center without consulting them. Thus, instead of being a measure for their safety, it becomes a measure of isolation. In addition to this, these CAR are not habitable (confined and cold spaces, without ventilation nor green areas nor intimacy) and compromise their safety (locked confinement in their bedrooms at night) and integrity (stigmatizing treatment that refers to the situation of prostitution, humiliating punishments and sexual violence).

In 2016, a 16-year-old adolescent victim of human trafficking accused a worker from the shelter where she was located for sexually abusing her⁸, and this person was not prosecuted.

Recommendations suggested for the 3rd cycle of the UPR:

- Develop and implement a comprehensive Health Care Protocol for victims of human trafficking with a gender approach, taking into consideration especial treatment for children and adolescents, and report about this matter during the 4th cycle of the UPR.
- Implement police stations, prosecutors' offices and courts specialized exclusively on human trafficking crimes.
- Ensure that the admission of trafficking victims to the Residential Care Centers (CAR) is not against their will and that it does not have an indefinite duration. Furthermore, establish protocols for prevention and administrative sanction of violence within these centers.
- For the National Council of Magistrates (CNM) to readily sanction the magistrates of the Permanent Criminal Chamber of the Supreme Court of Justice who issued the Appeal for Annulment N°. 2349-2014 that left unpunished a case of trafficking for purposes of sexual exploitation where the victim was a 14-year-old girl.
- For the National Council of Magistrates to implement training on the use of the gender approach in the judicial function and to report on this matter in the next 2 years.
- Train officials from the Office of the Attorney General and the National Police Force of Peru in the assistance to victims of trafficking with due regard to the gender approach, and to report on this matter in the next 2 years. Furthermore, devise any training programs in consultation with civil society groups.

Preguntas sugeridas:

- **What measures have been taken for the assistance to the victims of human trafficking for purposes of sexual exploitation, specially when they are girls and adolescents?**
- **What measures for the prevention of human trafficking for the purposes of sexual exploitation have been developed?**
- **Why the magistrates of the Permanent Criminal Chamber of the Supreme Court of Justice who issued the Appeal for Annulment N°. 2349-2014 have not been sanctioned despite having been reported approximately a year ago to the National Council of Magistrates?**

⁷ Terre des Hommes Suisse, Colectivo Tarpuy, GIN. Documento de Trabajo: *Protegidas o Revictimizadas Alerta nacional sobre el modelo de gestión en los CAR de víctimas adolescentes de trata de personas.* (Work Document: *Protected or revictimized. National alert on the management model of CARs for adolescents victims of human trafficking.*)

⁸ Available at: <http://larepublica.pe/impresia/sociedad/811210-acusan-ex-empleado-del-inabif-de-abuso-sexual-contra-menor>