

Written submission on Peru 95th Session (23 April–11 May 2018)

(2127 words)

by ODRI “Intersectional rights” - Office for the Defense of Rights and Intersectionality

ODRI is an organization that works to promote an intersectional approach to human rights and public policies.

Our aim with this written submission is to assist the Committee during its 95th Session (23 April–11 May 2018) for its review of Peru’s report, comment and information under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, by providing independent information on the discriminatory conditions faced in Peru.

1. Situation of indigenous women (arts. 2 and 5), related to witchcraft-associated harmful practices.

The Government of Peru over the last four years has adopted major steps regarding the situation of indigenous and Afro-Peruvian women such as the creation of the Working Forum for the Promotion of the Rights of Indigenous Women, the development of social, economic and productive programs for indigenous women and the measures to respond to domestic violence. Despite that, indigenous women still experience intersecting forms of discrimination. ODRI wants to raise light on the extrajudicial killing of indigenous women accused of witchcraft in some rural and native communities.

Beliefs and practices related to witchcraft vary considerably between the 55 indigenous peoples in Peru. According to the data processed by the Ministry of Culture, such values differ tremendously regarding sorcery and witchcraft. Asheninka, one of the largest groups, assigned gender roles of agriculture to women, due to the fear that if women immerse into the rainforest they could become witches¹. Harakbut communities trust that witches (the *huachipari*) look for animals and plants to produce health diseases, while traditional healers (the *curanderos*) search the same in nature to restore health². Wampis highly value sorcery within their communities³.

In some cases, female accused of being witches had been executed. There is not a total number of the extent of these arbitrary deprivations of life and many of these killings occur in rural areas without notice from the State and media. Nonetheless, using the software NVIVO, ODRI has gathered information regarding four cases of indigenous women that show only the tip of the iceberg of homicides and punishments.

¹ Ministry of Culture of Peru. Official Database of Indigenous Peoples. <http://bdpi.cultura.gob.pe/node/65>

² Ministry of Culture of Peru. Official Database of Indigenous Peoples. <http://bdpi.cultura.gob.pe/sites/default/files/Harakbut.pdf>.

³ Ministry of Culture of Peru. Official Database of Indigenous Peoples. <http://bdpi.cultura.gob.pe/node/20>.

Information of the victims	Characteristics of the attack	Ethnic characteristics	State of the investigations
<p>Elesmira Zárate Argomedo (68 years old)</p>	<p>On January 18th, 2014, victim was detained and forced to walk four kilometers from her home at Tres Cerros to Pichampampa, where she was held captive for two days.</p> <p>The General Assembly of the Peasant Round of Otuzco accused her of practicing sorcery against her sick son. The victim tried to defend herself during her popular trial, but was hanged from her feet, suffocated with a stick in her mouth, and received punches on her stomach, shoulders and legs.</p> <p>She died while she was receiving her punishment with her knees bending to 90 degrees in the corner of her cell.</p>	<p>Quechua from Otuzco, La Libertad.</p>	<p>On January 22nd, 2014, the Provincial Prosecutor of Otuzco ordered the detention of three members of the Peasant Round of Otuzco, including one of her sons, Amaru Julián Zárate.</p> <p>The Provincial Prosecutor of Otuzco opened an inquiry to another son, Santiago Vacilo Zárate.</p> <p>One of the accused, Rony Walter Reyes Rodríguez, was detained on 25th June 2015 while he was walking through the street market. He is processed for the abduction and homicide of the victim for almost three years.</p> <p>The investigations are still at large, and there are not convictions up to this day.</p>
<p>Rosa Villar Jarionca (73 years old)</p>	<p>The victim was accused by the Native Community of producing stomachaches on members of the community. On 20th September 2016, the victim was tied by her hands to a pile of dry logs and branches. One member of the community soaked her body wet with gasoline while other light her on fire. She screamed until her last her breath.</p>	<p>Yanesha, from the Native Community of Shiringamazú Alto, Villa Rica, Pasco.</p>	<p>Police and prosecutors approached to the crime scene and collected evidence ten days after the incineration of the victim. The Prosecutor confiscated the communal book where the authorities ordered her execution.</p> <p>The Ministry of Culture gave a seminar with indigenous communities on 18th October 2016, regarding the limits of the right to use their justice systems, conflict resolution institutions, and other customary laws and practices.</p>

	The body burnt for three days.		The investigations are still at large, and there are not arrests, nor legal proceedings up to this day.
Unidentified women (Mid-thirties)	On 2015, victim was accused of witchcraft and was forced to abort after being bashed by her neighbors.	Unspecified ethnic origin but related to the case of Rosa Villar Jarionca according to the Prosecutor of the case.	No data available.
Rosa Andrade Ocagane (67 years)	<p>Apparently, Rubén Mendoza Iuiza, entered her room, attacked her with a machete, decapitated her and steal her heart and her head.</p> <p>The victim was found on her room on 25th November 2016. The modality of the killing suggested that there are links to a retribution for witchcraft spells.</p>	Resigaró/ocainá, from the Native Community of Nueva Esperanza, Pebas, Ramón Castilla, Loreto.	<p>On December 1st, 2016, the Prosecutor of Caballococha stated that there was not sufficient evidence to press charges and solicited the judiciary the termination of proceedings.</p> <p>The Judiciary of Peace and Investigation of Caballococha held a meeting against Rubén Mendoza Iuiza, which took place on April 6th, 2018.</p> <p>There are uncertainties regarding the termination of criminal charges against the suspect.</p>

The deaths of these women amount to arbitrary killings by non-state actors, triggering State international responsibility. These deaths were foreseeable and preventable, and after the occurrence Peruvian state should adopt a range of additional legal, investigatory, sentencing and protection measures. Victims were assaulted with extreme seriousness and attackers had motives related to social and cultural-constructed harmful stereotypes.

ODRI respectfully solicits, recalling General Recommendation No. 25 (2000) on gender-related dimensions of racial discrimination and the recommendations spelled out by the UN Working Group on the issue of discrimination against women in law and in practice, to recommend the Peruvian State to eradicate the intersecting forms of discrimination, by addressing the beliefs and motivation behind witchcraft accusations and develop policies and practices about the prevention and investigation of witchcraft killings, the punishment of the perpetrators and remedies for the victims or their families, taking into consideration the principle of cultural dialogue and mutual understanding. The State of Peru must adopt more educational measures and undertake data collection and monitoring of gender-based violence, including witchcraft-

related harmful practices, with the participation of stakeholders including indigenous organizations and female leaders, according to SDG 5 Gender Equality and SDG 16 Peace, justice and strong institutions, and the principle of leaving no one behind.

2. Information on the demographic composition of the population (arts. 1 and 2), in relation to the disaggregated data in different strategies developed by the National Statistical Institute of Peru (INEI).

Even though, the State of Peru has compiled data and indicators regarding Afro-Peruvian, original and indigenous peoples in the National Census of 2017, based on the criterion of self-identification, some challenges remain. The preliminary results had made visible marginalized and hidden identities.

Nevertheless, INEI (National Statistical Institute) used the category of 'mestizos' in the National Census of 2017, a category that diluted the process of self-identification of Afro-Peruvian, original and indigenous peoples that were uncomfortable with the stigma associated with these identities and preferred to identify as 'mestizos'. Moreover, previous census and instruments related to persons deprived of liberty, and lesbian, gay, bisexual, trans and intersex (LGBTI) persons, diffculted the presentation of disaggregated data using the self-identification criteria. The 2016 National Penitentiary Census aggrouped categories of sexual orientation, gender identity and expression, and sex characteristics, and used the category 'mestizos', which in result has not allowed a comprehensive appraisal and disaggregation of data of LGTBI persons that belong to an ethnic group within the penitentiary population. Meanwhile, the 2017 Online Survey regarding lesbian, gay, bisexual, trans and intersex (LGBTI) persons required the registration of ID cards by participants. The latter resulted in Internet security breaches that had a chilling effect within LGTBI communities, including Afro-Peruvian, and indigenous peoples' communities, that did not want the State to collect sensitive and personal data associated to ethnic composition, sexual orientation, gender identity and expression, and sex characteristics.

On the other hand, the Peruvian government lacks relevant information on the economic and cultural situation and living conditions of non-citizens, especially from Venezuela living in its territory, disaggregated by sex, color and descent, nationality or ethnic origin, indigenous origin, sexual orientation and gender identity, to allow an assessment of the extent to which these groups enjoy their rights under the Convention on an equal footing with the rest of the population.

Currently, INEI has developed a follow-up and review system to implement the 2030 Agenda for Sustainable Development. The actual framework contains references to indigenous peoples linked to SDG2 Zero Hunger (referring to the importance of food security to indigenous communities), SDG4 Quality Education (equal access for indigenous peoples and persons with disabilities) and SDG15 Life on Land (noting the relevance of forestry for indigenous livelihoods). There are also references to race and ethnicity in SDG10 Reduced Inequalities (mentioning the prohibition of discrimination based on these grounds) and SDG

17 Partnership for the Goals (declaring the significance of disaggregated data according to these identities). There are not indicators regarding migrants, asylum-seekers, and refugee status in the follow-up and review system. However, up to this moment, it is not clear how the different identities related to self-identification of Afro-Peruvian, original and indigenous peoples (afroperuano, negro, mestizo, moreno, mulato) are going to be included in this statistical system. Without comprehensive data the principle of 'Leaving no one behind' could be compromised for these collectives.

To remedy this situation, we respectfully ask the Committee to recommend Peru to: 1) Review the methodologies regarding the different national strategies adopted by INEI, in order to collect and provide data disaggregated by ethnicity, indigenous origin, nationality, age, sexual orientation and gender identity, that can give an empirical basis to evaluate the equal enjoyment of rights under the Convention, bearing in mind its general recommendation No. 24 (1999) concerning article 1 of the Convention and the Agenda 2030 of Sustainable Development.

3. Situation of indigenous human rights defenders (arts. 2 and 5).

ODRI is seriously concerned at the numerous reports of excessive use of force and ill-treatment against indigenous human rights defenders in connection with their advocacy activities related to the extraction of natural resources in their land and territories. Indigenous human rights defenders have been submitted to verbal harassment, physical abuse and arbitrary arrests. Most of the attacks are not duly investigated, or when investigations have been initiated they have been suspended, and most complaints against law enforcement officers and private parties have been dismissed. Human rights defenders are often silenced or intimidated by criminal charges against them that are a price of the defense of their livelihoods.

In fact, the Inter-American Commission on Human Rights has noted and the Special Rapporteur on the Rights of Human Rights Defenders, Michael Forst, has raised cases of harassment against environmental defenders regarding César Estrada Chuquilin, Virginia Pinares Ochoa, Jennifer Moore and John Dougherty, without a formal response from the government. Moreover, the government of Peru promised to develop a risk map for human rights defenders by 2019 and a protection mechanism by 2021.

However, some challenges remain ahead. The proposed specific mechanism that will provide comprehensive assistance and protection for human rights defenders requires the active participation of three ministers (the Ministry of Justice and Human Rights, the Ministry of Interior Security, and the Ministry of Mines and Energy). However, there are questions unresolved regarding the responsibilities of the Ministry of Mines and Energy and how they would address the human rights risks and ensure accountability of violations committed by private companies. Furthermore, even though there are references to discrimination and the International Convention on the Elimination of All Forms of Racial Discrimination, the Draft Human Rights Manual for the Police Forces lacks references to the racist motives and the

specific risks that share defenders, groups, organization, communities and family members from indigenous peoples affected by mining and hydroelectric projects.

For all the previous reasons stated before, ODRI respectfully suggest the Committee, to recommend the government of Peru to engage meaningfully in the protection of human rights defenders, collaborating with the mandate of the Special Rapporteur on the Rights of Human Rights Defenders, and develop specific safeguards for indigenous communities that can provide comprehensive protection of their livelihoods in the specific mechanism for human rights defenders in charge of the Ministry of Mines and Energy, and the Human Rights Manual for the Police Forces.