

Shadow Report

At Seventh and Eighth Periodic Report of the Peruvian State, for the 58th Session of the CEDAW Committee

Coordinated by:
Latin American and the Caribbean Committee for the defense of Women's rights -
CLADEM Perú



Perú

Elaborated by:

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Presentation

1. This document was produced by a group of NGOs that monitor public policies on gender equality and non-discrimination. The process was initiated in 2011, producing a complete and comprehensive document, coordinated by the Center for the Peruvian Women Center Flora Tristán, which is attached as an annex to this report.
2. The Committee for Latin America and the Caribbean for the Human Rights of Women, as in its Peruvian expression, CLADEM Peru as an articulating network, has taken the task to update these reports and analysis of the pending agenda on equality and discrimination against women, now headed to the CEDAW Committee.
3. The Alternative Report to the Seventh and Eighth Periodic Report of the Peruvian State, for the 58th Session of the CEDAW Committee, is characterized as participatory, as it has the support and thematic analysis of various civil society organizations dedicated to human rights and especially those whose mission is to work for a life without discrimination against women.
4. The organizations that participated in this process were:
 5. *CLADEM Perú, Centro de la Mujer Peruana FLORA TRISTÁN, DEMUS-Estudio para la Defensa de los Derechos de la Mujer, Lesbianas Independientes Feministas Socialistas-LIFS, Movimiento El Pozo, Centro de promoción y defensa de los derechos sexuales y reproductivos-PROMSEX, Movimiento Manuela Ramos, Asociación Aurora Vivar, Asociación Pro Derechos Humanos-APRODEH, Instituto de Defensa Legal-IDL, Kolectiva Rebeldías Lésbicas-KRL, Instituto RUNA, Movimiento Homosexual de Lima, Red Peruana de Migración-REDPEMIDE, Paz y Esperanza, Capital Humano y Social-CHS, Articulación de Lesbianas Feministas de Lima, and Red de Educación de la Niña-Florecer.*
6. In this document, the concerns and demands of organizations are discussed, analyzing the level of implementation of public policies on non-discrimination against women, and noting the pending agenda to achieve real equality and overcome the many expressions of gender discrimination.
7. We know that many other issues have not been considered because of the need to not extend the document; however, we believe that the above can give an overview and help to build recommendations to the Peruvian State to fulfill its obligations as a promoter, advocate and guarantor of the rights and citizenship of women under CEDAW.

Lima, June 2014.

Table of Contents

Part I: Articles 2 and 3

I. Violence against women	5
II. Equal opportunities and no discrimination in the defense sector	10
III. Amazonian Indigenous Women	12
IV. Lesbian Women	15
V. Transgender Women	17
VI. Migrant Women	18

Part I: Article 6

Trafficking	20
-------------	----

Part II: Article 7

Political Participation of Women	22
----------------------------------	----

Part III: Articles 10 and 14, numeral 2D

Girls and adolescents education in rural areas, violence, and discrimination in School and illiteracy in women	24
--	----

Part III: Article 11

Women and Employment	28
----------------------	----

Part III: Article 12

I. Legal abortion	31
II. Illegal abortion	32
III. Contraception	33
IV. Forced sterilizations	34
V. Maternal Mortality	35
VI. Budget Allocation: The case of the Neonatal Maternal Health Program	36
VII. Adolescents: Sexual and Reproductive Rights	37

Executive Summary

8. The report highlights that discrimination against women is one of the main problems of the country, however this is not reflected in the prioritization made by the Peruvian State in public policies, which shows that progress has been made on the formal level but this has not necessarily meant that the power structures that sustain gender inequality are eradicated. This is evident when analyzing the ineffectiveness of existing standards, national and regional difficulties to allocate adequate budgets to combat all forms of discrimination and implement sustainable public policies, permanence and influence of conservative approaches and the absence of a critical view to analyze the real impact of State policies, lack of recognition of sexual and reproductive rights, and the unwillingness to generate sustained prevention efforts.
9. The common pattern in all the topics, is that the State does not comply with due diligence, in the terms proposed by the Special Rapporteur on Women, so that impunity, lack of access to justice, and structural difficulties which are structural discrimination remain in place.
10. Male violence is a problem that affects all women in the country, raising violence in couples at 36%. Reported cases have not yet come to represent a third of all battered women, and the percentage of those with access to justice is minimal. Impunity and the naturalization of violence are a constant fact. The prevalence of femicide is the most real and terrible consequence of this situation. Public policies are focused on the treatment and punishment, forgetting prevention as a starting point. In addition, the staff in services is still reported as insensitive, hard of specialized and exhausted by the training workload.
11. Inequality and violence will generate lack of access to opportunities and challenges for the free development of the personality. It is a matter of concern that many women in public office suffer political harassment, resulted in acts of violence and harassment during the course of their duties. On the other hand, women in the military are exposed to the violation of their rights with absolutely impunity. Likewise, lesbophobia and transphobia are situations that women with a sexual orientation different from the heterosexual suffer daily.
12. Rural women, girls, especially indigenous Amazonian and Andean face special vulnerability to be exposed to sexual violence, lack of access to comprehensive health and their sexual and reproductive rights, discrimination at school, and inequality deepened by ethnic and racial discrimination.
13. It is a concern that the Peruvian State does not generate concrete measures to combat the feminization of poverty, and even social programs reproduce gender roles, thus not contributing to promote harmonization between women's personal and professional life, and create a culture of shared roles in care and attention of housework. At the working level, women are the ones under worse work conditions, especially domestic workers.
14. The State has signed and ratified conventions and treaties for the protection of women's rights. It is a concern the non-compliance with the provisions thereof, nor the statements made by the Inter-American Human Rights Commission against cases of forced sterilization and the recommendations of the Human Rights Committee and CEDAW's Committee about therapeutic abortion and against the criminalization of abortion in cases of rape. The failure to repair, the impunity, and the ongoing search for justice reflects this situation.
15. It remains a concern that political will is not sustained in specific budgets for implementing sustained action, and that public opinion is hard to talk about equality and rights of women, showing that it is necessary to invest and change routes to generate profound cultural changes, which accompany public policy for the attention and punishment.

Part I: Articles 2 and 3

Obligations to eliminate through all appropriate means discrimination against women and guarantee them the full enjoyment and exercise of human rights and fundamental freedoms in equal conditions than men.

I. VIOLENCE AGAINST WOMEN¹

16. Violence against women is one of the main problems in the country. The difficulties to address this form of discrimination are diverse and focus mainly on few prevention measures for prevention, quality of care and coverage, impunity, limited access to information that facilitates advocacy and research, low budget, restrictive approaches to implement policies and inefficient regulations.
17. The National Survey on Demography and Family Health (ENDES) is the only source that includes a module on violence against women, girls, and boys. It should be noted that though this is an important tool it does not report the different forms of gender-based violence that affect women beyond couples and interfamily relationships. In addition, this tool still does not incorporate variables such as ethnicity (beyond rural) and sexual orientation in their measurements. There are no easily accessible records² to account on the prosecution of cases and how many women came to finish off the critical path with a favorable ruling.
18. As for the magnitude and prevalence of violence, ENDES 2013, highlights that psychological violence remains high, according to this survey, 62.9% of Peruvian women reported having ever suffered situations of control and 21.2% have experienced humiliating situations from her partner. Compared with figures recorded by Continuous ENDES 2010, 2013 figures show a slow decline. It can be observed that female population affected by male violence is still the majority. This indicates that there is still a strong persistence of cultural patterns that justify violence against women. As for physical violence, the change is very slow compared to that recorded - for example, in 2010 where 38.4% of women ever suffered situations of physical and / or sexual violence. In 2013, ENDES reported 36.4% for this indicator.
19. In the country, there is no official source that provides systematic, regular and reliable information on the incidence of sexual violence in and outside man-woman relationship. ENDES only collects information among women of childbearing age who at least once lived with a male partner. The other sources are comprised of administrative records that only account the caseload. Arguably, to that extent, the prevalence of sexual violence is underestimated.
20. To date, the Peruvian State has not met to pass legislation to comprehensively address the multiple ways in which violence against women and the different spaces in which it occurs is expressed. The current legislation is part of the trend of laws against violence within the family, and other rules that do not have an integrated framework. The Protection against Domestic Violence Act came into force 20 years ago, and although it has undergone several modifications, the persistence of high levels of violence and lack of access to justice for victims, show the limitations and ineffectiveness of this standard.
21. The Peruvian government has also failed to bring domestic legislation with the Convention of Belén do Pará. One example is the provision of Article 339 of the Civil Code, which provides that the divorce action due to family violence expire six months of the events that prompted the complaint
22. The Equal Opportunities for Women and Men Act, adopted in 2007, contains between the guidelines established for the Executive Power, regional and local governments, the obligation to develop

¹ Report elaborated by CMP Flora Tristan, CLADEM Peru, Paz y Esperanza y Demus in 2011; and updated in 2014 by CMP Flora Tristan.

² These data must be requested from the relevant authorities, they are not freely accessible to the public

policies, plans and programs for the prevention, treatment and elimination of violence in all its forms and in all areas, especially against women³. While it is an improvement, it is necessary to note that in the absence of a framework law to address gender-based violence and to enable the developing of secondary legislation, the provision of this Act has, in practice, a restricted application.

23. Public policies on violence against women have been developed in the National Plan to Combat Violence against Women 2009-2015 (PNCVHM). A recent balance at the level of implementation of this policy⁴ indicates that progress in implementing the actions contained in the Plan is partial and uneven. As in previous experiences, there are major budget problems hindering the fulfillment of program goals. To the extent that this policy does not have a dedicated budget, funding for activities specified therein depends on the assignments sectors and agencies involved in its implementation made from its own resources.
24. In addition, there are further difficulties to implement the Plan articulately, both nationally and in the regions. In turn, it is important to note that although in the Plan the conformation of spaces are expected to ensure proper coordination, as the High Level Multi-sectorial Commission (political level), the National Working Group (technical level) and agency roundtables, the problem is not overcome. In any case, the lack of political will lead to the failure of the aims of these spaces.
25. The balance made by civil society, shows that there are serious difficulties in the regions to implement the above policy. These difficulties are reflected at approaches that fail to put women as subjects of rights or are intended to place the problem only in domestic violence, as in the allocation of scarce or null budget for this specific policy and capabilities not installed in the governments to develop regional plans.
26. Although various public institutions have approved manuals and protocols oriented to set procedures for dealing with cases of violence against women, omissions are observed in relation to the care of certain populations such as indigenous or native, as well as the persistence of gender stereotypes. In other evaluations, inadequate services and their limited ability to integrally and inter-disciplinary care of women victims of violence attending, are also highlighted.
27. Nationally, 32 police stations have been installed for women that work mainly in urban areas. In the case of Women's Emergency Centers – Centros de Emergencia Mujer (CEM)⁵, the Ombudsman's Report N° 144⁶, calls attention to the fact that they have been primarily developed taking into account the population density and failed to take into account the rate of incidence of violence against women. Notably, there are 200 CEM in the country, which is an important measure. However this has not ensured that the staff has the necessary training and expertise to handle these cases. In addition, there is no strategy to achieve this goal, which is reflected in demands for improved quality of the service that women users expressed through monitoring processes undertaken by civil society organizations⁷.
28. On the other hand, justice and services operators have difficulties to understand gender dimensions, and incorporate the right and intercultural approaches. According to a recent study on access to justice for women in Peru, the judiciary and the authorities that manage it are strongly influenced by

³ Article 6°, letter c.

⁴ Mapeo del Plan Nacional contra la violencia hacia la mujer 2009 -2015. CLADEM Peru, May 2013.

⁵ The Women's Emergency Centers– CEM are the only services that offer specialized attention to women victims of family and sexual violence, from an inter-disciplinary and integral approach that includes legal, psychological and social dimensions.

⁶ Ombudsman Office, *Informe Defensorial N° 144. Centros de Emergencia Mujer: Supervisión de los servicios especializados en la atención de víctimas de violencia familiar y sexual*, July 2009.

⁷ The Collective November 25, joint 65 organizations under the international day of non-violence against women, issues a pronouncement on the pending agenda of the State in prevention, treatment and punishment of violence. In the 2011-2013 period, it has demanded to the Ministry of Women that at the same time the number of Women's Emergency Centers increase , their quality of care, coverage and intercultural adaptation should also do.

the conception of family that hinders the rights approach, such that over the right of women to live free of violence, attitudes and practices that seek to preserve family unity and perpetuate gender stereotypes prevail⁸.

29. Although in 2003 the Law to Prevent and Punish Sexual Harassment was enacted, it should be noted that there are many cases of harassment that go unreported by the victims, because it is prevented by the psychological effect this sexual assault provokes. This, together with the difficulty of the proof of harassment, has negative consequences that are aggravated by the use of "false complaint" against the victims, a form of retaliation available to offenders in the cases in which the victim is not believed and there is no proper investigation. In the Peruvian law, sexual harassment is not a crime.
30. The regulation of the Penal Code relating to sexual violation has suffered transformations and modifications, which have failed to overcome some problems such as those presented in the cases of women with elastic hymen, because many judges consider that in order for it to constitute a crime of rape is necessary to prove the breaking of the hymen. In addition, the problems arising from the restriction of the crime of sexual violation to an act of violence or threats persist, without considering the existence of a coercive context.
31. The Penal Code maintains the criminalization of abortion in cases of rape, forcing women to continue a pregnancy result of this crime, even though research indicates that Peru is among the countries with the highest prevalence of sexual violence among adolescents in Latin America.
32. The Penal Code has not been adequated to the Rome Statute of the International Criminal Court. This has some serious consequences: the inability to process sexual violence cases occurred during armed conflict based on domestic criminal law or when it is perpetrated widespread and in a systematic manner from the State or from an organized group, and the inability of the ICC to exercise jurisdiction.
33. The Equal Opportunities for Women and Men Act establishes guidelines for the judiciary and the system of administration of justice in access to justice: ensuring access to justice in equal opportunities, implement policies that allow the development of fair, effective, and timely reporting procedures and punish all forms of sexual violence, and damage repair and compensation for those affected. It also explicitly states the obligation to remove barriers to access to justice, especially for rural, indigenous, Amazon, and Afro-Peruvian women.
34. Access to justice for women is one of the major outstanding pending issues in the country, for impunity on violence against women is a common denominator in most cases. Service and justice operators continue to cast suspicion on the women complainants, showing it in the interpretation of the expert report on gender stereotypes.
35. In turn, the new Criminal Procedure Code⁹ (NCP) has adopted the accusatory model. However, to the extent that the Code is gradually being implemented in the country¹⁰, the inquisitorial and accusatorial systems coexist. To date, there are no studies on the impact of the criminal procedure reform in the access to justice for women victims of violence. The performed studies have addressed the issue only from the quantitative side: unresolved cases and duration of the process.

⁸ Macassi, Ivonne, *et. al.*, *Entre luces y sombras, caminos para acceder a la justicia. Estudio de la Comisaría de Mujeres de Villa El Salvador*, Centro de la Mujer Peruana Flora Tristán and Manuela Ramos, Lima, 2010, p. 116.

⁹ Legislative Decree N° 957.

¹⁰ A Special Committee on the Implementation of the Criminal Procedure Code, which is chaired by the Minister of Justice. It is responsible for planning, conduct, coordinate, supervise, monitor and evaluate such implementation nationwide. It conducts studies on the results after 6 months of the new system installed in the judicial district. However, these studies point to show only results that match overcoming procedural overload and congestion.

36. By 2013, the Reparations Council, had entered 3282 in the Register of Victims (98.3% female) enrolled cases of sexual violation and 603 cases in process. There are also 1274 registered cases of sexual violence and 289 cases in the rating process¹¹. The Peruvian State ordered the creation of the Register of Victims in order to recognize their status as victims or beneficiaries of individual people or groups or communities affected during the violence that occurred in Peru between May 1980 and November 2000. The Reparations Council was in charge of this Record. According to current regulations, the Council can only register Reparations to victims of rape, leaving aside victims of other types of violence.
37. However, the Reparations Council decided to include within the list of fifteen forms of affectations registered in the Register of Victims, in addition to rape, other forms of sexual violence such as sexual slavery, forced marriage, forced prostitution, forced abortion¹². This, at the request of the civil society organizations and accepting the recommendations 20 and 21 made by the CEDAW Committee to the Peruvian State on 19 January 2007¹³. Nevertheless, the victims sexually abused nor those who suffered other forms of sexual violence have had access to justice and reparation, no one has been punished despite the existence of over 19 processes in the Public Ministry¹⁴.
38. Generally, the prosecution of cases of human rights violations that occurred during the internal armed conflict presents several difficulties, especially in terms of the verified facts, the responsibility of the perpetrators (authorship and participation) and the offense (temporality of the current applicable standard interpretation and application of international law in national courts). The lack of gender and intercultural training of judicial officers, the lack of specialized services in human rights in places where the events occurred, and the inadequacy of culturally appropriate services are important barriers to access to justice. Together with these difficulties, in cases of rape the prosecution presented two additional specific situations: women do not report out of fear, shame and distrust in the responsible authorities (Public Ministry and Judiciary) and those who decide to file a complaint are immersed in a constant cycle of victimization enquiry.
39. The systematic murder of women based on gender or femicide is a problem that has been recognized by the regulatory system through its criminalization, first achieving the adoption of Law 29819, incorporating femicide as an aggravating parricide. In 2013, the rule was modified, approving the Law 30068, which expanded the figure of intimate femicide, to consider other forms of femicide and expand aggravating circumstance. While this is an improvement over previous legislation, it is necessary to have a framework law that allows placing all changes within a comprehensive proposal, which also guarantees the prevention of different forms of violence that perpetuate the discrimination that are the prelude to femicide. As for the record, since 2009, the gathering and systematization of information is done through the Prosecutor's Office's Crime Observatory and the Ministry of Women's Registry of Femicide Victims in Peru. However, the information between the two records is not homogeneous, which entails that distinct and unmatched information about the problem is handled. It has been noticed in the last year a major update of the registration in the MIMP. It is important to note that none of these logs information is disaggregated by sex and ethnicity, sexual orientation or socioeconomic status.
40. According to MIMP, between January 2009 and April 2014, there have been 606 femicide and 478 attempted femicide. Most victims are between 18 and 35 years, corresponding 88% to intimate femicide. This crime cannot be seen in isolation, as it responds to a permanent context of violence that puts all women at serious risk. The difficult for these policies to integrate themselves and

¹¹ Institutional Registration of Reparations Council through official data. Demus, 2013.

¹² Regulation of Entry in the Register of Victims of Violence by the Reparations Council, Category I: Direct victims. 3.1.2.(7).

¹³ In December 2010, the Reparations Council included in the list of affectations matter of record, new forms of sexual violence: attempt or threat of rape, groping, improper touching or sexual harassment, torture in pregnant women, when torture endangers pregnancy, torture in the sexual organs of men and women, and forced nudity in men and women.

¹⁴ Informe anual, 2012-2013, Balance de los Derechos Humanos de las Mujeres, Coordinadora Nacional de Derechos Humanos, 2013.

contribute to the same end, are due to the absence of a gender perspective in many authorities that design and implement these policies.

41. The lack of response of the system seriously jeopardizes the lives of women, as it is evidenced by the Ombudsman in the study of 45 court records on crimes characterized as intimate femicide¹⁵. In this, a high percentage of cases in which women had previously suffered domestic violence were found. According to this study, from a universe of 30 court cases, in 76.7% of cases the sentence received was below the legal minimum¹⁶ and negligible amounts for civil damages. In 2013, 39% of murdered women and victims of attempt, took legal action, either the police or prosecutor report, or apply for protective measures (MIMP, statistical register 2013).
42. In the framework of the National Working Group that monitors the PNCVHM 2009-2015, a Bureau against femicide was created in 2012, which is piloting the creation of a protocol for the care of the families and victims of attempted femicide. They are also requesting the establishment of a protocol for research with a gender perspective, but apparently, this is not yet planned.
43. Although regulatory developments are important, it is a concern that the political will to fight violence against women ends in the adoption of standards that ultimately have difficulties to be implemented or is ineffective because they lack other preventive measures and budget to combat impunity and eradicate stereotypes and roles that contribute to the perpetuation of violence.
44. One indicator to measure the real commitment of the State with the right to a life free of violence, is the budget spent to address the problem. It is concerning that the Ministry of Women, the main governing body on gender policy access only 0.4% of the budget of the Executive, the National Program against Domestic and Sexual Violence, in charge of Women Emergency Centers to 0.07%. Likewise, the Ministry of Interior and the Ministry of Health, invest 0.04% and 0.01% respectively, in the implementation of PNCVHM 2009-2015¹⁷, which is evidence of the difficulties to achieve concrete change results.
45. While progress can be seen on a formal level, and a favorable political discourse to generate action to end violence against women, this is not reflected in the budget prioritization of the problem or in a change in the policy approach that guarantees prevention, care quality and access to justice.

RECOMMENDATIONS: VIOLENCE AGAINST WOMEN¹⁸

- Pass a law to protect against violence towards women, including not only mechanisms of sanction but also for the prevention and care, with an intercultural perspective.
- Bring the Criminal Code to the Rome Statute of the International Criminal Court, ratified by Peru, typifying the various forms of sexual violence as crimes against humanity, including forced sterilization. Include people who have suffered various forms of sexual violence during the internal armed conflict as beneficiaries' victims.
- Amend legislation on sexual harassment, by repealing the figure of the false complaint and stating that the burden of proof is reversed. Repeal Article 339 of the Civil Code in order that the right to dissolve the marriage when there has been a history of violence becomes limited.
- Decriminalize abortion in cases of rape.

¹⁵ The study was conducted based on records initiated in 2000 of the judicial districts of Lima, Junín, Ayacucho, Puno, and San Martín.

¹⁶ In these cases, the crimes were judged as patricide or aggravated homicide, crimes punish with deprivation of not less than 15 years, according to the Penal Code.

¹⁷ Information based on a study elaborated by Demus, 2013; registred in "Balance de los derechos humanos de las mujeres 2012-2013", Coordinadora Nacional de Derechos Humanos. 2013.

¹⁸ The recommendations outlined here have been built also considering the proposals of Colectivo 25 de Noviembre, 2013 in its declaration. It is a confluence of more than 63 civil society organizations around the day of non-violence against women.

- Ensure that judicial officers have a permanent training on human rights, gender, and intercultural approaches, and guarantee the duty of due diligence. Ensure the existence of Gesell cameras for all women and remove the repetitive statements of victims.
- In coordination with regional and local governments, increase, the number of prosecutions, courts and police stations in rural areas, and establish protocols for specialized care for women victims of violence with an intercultural approach and linguistically appropriate.
- Implement an integrated system of statistical information on the various forms and manifestations of violence against women, considering at least, variables of age, ethnicity, sexual orientation, gender identity, department and area of residence.
- Improve care services, increasing their number and promoting their articulation with other care services in rural and urban areas.

II. EQUAL OPPORTUNITIES AND NO DISCRIMINATION IN THE DEFENSE SECTOR¹⁹

46. Regulations and spaces for proper integration of military women into the Armed Forces were gradually implemented for the last 16 years. Law N° 26628 was the starting point for regulating the access of women to military schools.
47. Materializing the effective admission of women to the armed forces in 1997, in the Army, in the Air Force in 1998 and in the Navy in 1999. Subsequently, other laws are passed, as the one that regulates the use of prenatal and postnatal leave of female staff in the armed and police forces²⁰, the Prevention and Punishment of Sexual Harassment Act²¹, the Military Status of Officers of the Armed Forces Act²², and the Promotions of Officers Act²³, which regulate the status career of military staff, as well as the principles of the system of promotions in the armed forces.
48. According to the Law on Military Status of Officers of the Armed Forces²⁴, officers have equal rights and obligations; however, also notes that "limitations can be set based on objective criteria and sex, inherent to the military function". On this basis, the rules of the Act limits the participation of women "in specialties related to Special Operations and in Frontline Combat Units", meaning thereby that the limitation is in the case that the confrontation is body to body where there is a disadvantage for female staff. In addition, it provides another constraint: "When constraints on habitability facilities of the Units, whose solution affects the operation of the mission". In this case, for example, the Navy is not permissible for women to specialize as submariner, arguing that these units are designed with small spaces and only allow coexistence between men.
49. Up to date, the participation of women in the armed forces is still rather limited, since it does not exceed 5% in the three hierarchical levels. Therefore, while the total numbers of staff serving in the armed forces are men 94.3%, women's participation amounts to only 5.62%²⁵. In December 2013, the graduation ceremony of 262 new officers took place in which not only a large number of women graduated but also for the first time in the history of the Army, a female cadet was honored and won the Sword of Honor of the Peruvian Army²⁶.
50. Where we see a higher percentage of women's participation is in the troop level, where they have an equivalent level of participation by 6.16%. At the level of NCOs and officers, women recorded a

¹⁹ ¹⁹ Report elaborated by Instituto de Defensa Legal (IDL) in 2011; and updated in 2014.

²⁰ Law N° 28308.

²¹ Law N° 27942.

²² Law N° 28359.

²³ Law N° 29108.

²⁴ Law N° 28359.

²⁵ Ministry of Defense. Dirección General de Recursos Humanos para la Defensa. 2011

²⁶ <http://publimetro.pe/actualidad/noticia-primera-vez-mujer-obtiene-espada-honor-ejercito-18944>

participation of 4.98% and 4.99% respectively. In the Army, women's access to weapons of infantry, cavalry and artillery is prohibited; in the Navy, to the Submarine, Marine Corps and Special Operations; and the Air Force, to the Air Defense and Special Operations. In this sense, it can be said that the military is still one of the last barriers to women in terms of their full integration into the working world.

51. In 2011, the Ministerial Resolution No. 108-2011 - DESG was published, through which the Directive No. 001-2011-MINDEF/IG/K which establishes the procedures to follow **crimes occurring against sexual freedom** within the scope of the Ministry of Defense, is approved. In the latter a protocol of action for the three armed services is proposed, regulating procedures after a crime against sexual freedom, and establishing guidelines for administrative action in protecting and promoting rehabilitation counseling to victims. However, the draft policy that is focused on the one who is reported in order to deal with the alleged offender and protect the image of the discipline and institution²⁷. While recognizing the importance of this, it should be noted that the wording of such a rule should focus more on the victim, including procedures to prevent re-victimization, enforce their legal rights, and thereby (re) build their confidence in the system.
52. The Ombudsman issued Resolution No. 021-2011/DP making recommendations to armed and police institutes to change their internal policies prohibiting pregnancy during training institutes. For the military, it was recommended to amend several articles of the internal regulations of the training institutions approved by Supreme Decree N° 001-2010 -DE -SG, which states that the state of pregnancy of a student is grounds to discharge her by psychophysical unsuitability of psychosomatic origin.
53. Arguments of this proposal are based on the rights of free personality development and the principle of dignity, the right of access to public employment, education and reproductive rights. Therefore, the Ombudsman proposed the adequacy of such regulations to the Constitution, and measures to ensure continuity in studies of pregnant students and their reinstatement after childbirth²⁸. The Constitutional Court judgment No. 05527 STC -2005 PHC / TC where it resolves to incorporate a student from the Police Training Centre adds to this proposal.
54. In this regard, the Ministry of Women and Vulnerable Populations (MIMP) reported in Note N° 064-2012-MIMP/DVMM that has prepared two draft on legislative devices posing amendments to the Internal Regulations of the Armed Forces training institutions, as well as to the Manual of the Regimen of Education of Training Schools of the National Police of Peru, approved by Resolution N° 621-2010-DIRIGEN/DIREDU. These proposals seek to bring the before mentioned legal provisions into constitutional parameters established by the Constitutional Court.
55. In addition, on August 8, 2013²⁹, MIMP reported that work on the Legislative Decree No. 1151 is underway. This law regulates police training institutions in Peru. As a result of their work with the Ministry of Defense two articles prohibiting discrimination on grounds of pregnancy in cadets women were added; and in art.19 the sentence exposed by the Constitutional Court in Case No. 05527 STC - 2005 PHC / TC is quoted. Undoubtedly, this is an example of good practice, but we believe that through regulation setbacks could occur, which would be unconstitutional because the Constitutional Court already sets the standards in the previously mentioned sentence.

²⁷ Tamayo, Ana María y Urrutia, Isabel. "Aproximación al proceso de integración de la mujer a las Fuerzas Armadas con énfasis en instrumentos contra la violencia sexual". In: Arce, Gerardo (et.al). "Juventud y Género en las Fuerzas Armadas: Hacia el Ejercicio de Derechos Fundamentales". Lima: IDL. pp 125-136. p 133.

²⁸ Boletín N°11 - Ciudadanos Protegiendo Ciudadanos. 2011. See in: http://www.ciudadanosprotegiendociudadanos.org/web/panel/publicaciones/101213_pdf_bol11.pdf

²⁹ In an activity carried out by Red Ciudadanos Protegiendo Ciudadanos, in declarations of Ana María Vidal – Director of Promotion and Protection of Women's Rights.

RECOMMENDATIONS: EQUAL OPPORTUNITIES AND NO DISCRIMINATION IN THE DEFENSE SECTOR

- Amend Act N° 28359, Law of Military Status of Officers of the Armed Forces, and its regulations so there is no discrimination and allow the professional development of military women. Adapt the laws and other rules to the international standards on human rights.
- Create an observatory of equal opportunities between women and men, comprising the Ministry of Defense and the armed forces.
- Modify the Internal Rules of the Training Centers of the Armed Forces, approved by Supreme Decree N° 001-2010-DE/SG and the Manual of the Education Regime of Training Schools of the National Police of Peru, approved by Directorial Resolution N° 621-2010-DIRIGEN/DIREDU. Working together with the Ministry of Women and Vulnerable Populations to the adequacy of the regulations of the training schools of the Armed Forces.

III. AMAZONIAN INDIGENOUS WOMEN³⁰

56. The situation of indigenous women has often been invisible, not only by ethnographic studies but also by international human rights³¹ instruments. The problem is complex, given the situation of discrimination they live as a community. Indigenous peoples suffer social and cultural discrimination as well as economic and political. Indigenous women also suffer gender discrimination, transversely to the other forms of discrimination.
57. The observation of the situation of indigenous Amazonian women is hampered by the lack of statistical data disaggregated by sex and ethnicity. The available information comes almost exclusively from national census of Amazonian native communities³² and even in these, is limited because information is not disaggregated by sex for all variables and for those necessary to perform an analysis of the situation of women.
58. Among the Amazonian indigenous women, early childbearing is a problem that is daunting, even when compared with indigenous people from the highlands. According to the 2007 census data, 55.6% of the Amazonian indigenous women had their first child between 15 and 19 years of age and 6.8% between 12 and 14 years³³.
59. There are no data on the number of Amazonian indigenous women dying each year from pregnancy and childbirth. However, there are figures on the total number of maternal deaths by region. According to this information, half of the regions accounted for 80% of maternal deaths between 2000 and 2009 were those with high concentration of indigenous Amazonian people³⁴.
60. In addition, the Maternal Mortality Ratio (MMR)³⁵ for 2011 was estimated to be 92.7 per hundred thousand live births in the period 2001 to 2011. This indicator was higher in the Amazon (160.5 per

³⁰ Report elaborated by CMP Flora Tristan in 2011 and updated in 2014 for this session.

³¹ In 2000, the Committee on the Elimination of Racial discrimination issued the General Recommendation N° 25, on the dimensions of racial discrimination related to gender. However, in the observations and recommendations issued in the review of periodical reports submitted by Peru, gender discrimination related to indigenous women has not been addressed.

³² In 2007, the II Census Amazonian Native Communities was carried out. This census was criticized because an important number of communities were not surveyed due to their geographical inaccessibility. The use of "mother tongue" as the only criteria to identify indigenous peoples was also criticized.

³³ Instituto Nacional de Estadística e Informática, *Censos nacionales 2007 XI de Población y VI de Vivienda. Resultados Definitivos de Comunidades indígenas*, Tomo I, Lima, 2008 p. 87.

³⁴ Mesa de Concertación para la Lucha contra la Pobreza, *Programa Estratégico "Salud Materna Neonatal". Reporte de Seguimiento Concertado: Balance del año 2010. Resumen Ejecutivo*. Lima, 2011, p. 3. In: http://www.mesadeconcertacion.org.pe/documentos/documentos/doc_01536.pdf

³⁵ Maternal Mortality Ratio (RMM) is an indicator that measures the risk of death of a woman during pregnancy, childbirth or postpartum.

hundred thousand live births)³⁶. The cultural appropriateness of labor in the health services has undergone a specific standard. However, in 2008, the Ombudsman drew attention to the fact that it depended "entirely on international cooperation"³⁷

61. In 2004, the National Health Strategy on Indigenous Peoples was created³⁸. Its creation within the Ministry of Health, responds to the need to reduce health gaps presented by the indigenous population. However, given that the largest gaps correspond to the Amazonian peoples is a priority to meet the needs of this population. One of its objectives is also the cultural appropriateness of health facilities and services that provide care in the occupied territories by indigenous populations.
62. Despite legislative advances in education³⁹, these seem not to affect indigenous peoples, because there are serious deficiencies and barriers not only to access but also for staying in school and the completion of studies. The Ombudsman widely documented the shortcomings of intercultural bilingual education⁴⁰.
63. According to information from the National Census 2007, the Amazonian indigenous population 15 years and older who are illiterate amounted to 33,963 persons, representing 19.4% of the population. Of this total, 28.1% are women and 11.8% men, so that the rate among women is almost three times higher than men⁴¹.
64. In the period 2012-2013, the Beca 18 program reports a total of 905 fellows who come from 602 Andean and Amazonian indigenous communities, of which only 38% are women⁴².
65. In many indigenous peoples, women are not considered subject of law in regard to land property, and if there have been changes that show that women today have more access to it than before, it has not occurred in equal terms with men. Usually legacy systems continue to benefit only indigenous men.
66. JUNTOS -economic transfers program- has provided the shaping of new spaces for strengthening women's leadership; however, it has reinforced traditional gender views when it considers women as the only responsible for compliance with program responsibilities; although negotiation skills have increased in women, it is limited only to daily living expenses, not in important decisions⁴³.
67. The violence perpetrated against women in indigenous communities, whether in the community or family space, is not recorded in official sources. In community settings, domestic violence is often seen as a private matter and, in any case, subject to community justice. However, when the communal authority intervenes, women often face indigenous justice system that does not consider violence against women in the domestic sphere, the home abandonment or refusal to fulfill maintenance obligations towards children, etc., as likely to be sanctioned.

³⁶ See in: Mirtha Maguiña Guzmán and Jorge Miranda Monzón, *La mortalidad materna en el Perú, 2002-2011*. Lima: Ministerio de Salud, Dirección General de Epidemiología, 2013. 331 p. Visited on May 26 2014 in <http://www.unfpa.org.pe/publicaciones/publicacionesperu/MINSA-Mortalidad-Materna-Peru.pdf>

³⁷ Ombudsman Office. *Informe Defensorial N° 134. La salud de las Comunidades Nativas. Un reto para el Estado*. Lima. 2008. p. 163.

³⁸ Ministerial Resolution N° 771-2004/MINSA.

³⁹ Law N° 27818 for Intercultural Bilingual Education, Law N° 29735, regulates the use, preservation, development, recovery, promotion, and the dissemination of ancestral languages in Perú.

⁴⁰ See: Ombudsman Office, *Informe Defensorial N° 152. Aportes para una Política Nacional de Educación Intercultural Bilingüe a favor de los pueblos indígenas del Perú*, Lima, 2011.

⁴¹ Instituto Nacional de Estadística e Informática, *ob. cit.*, p. 70.

⁴² Choque Larrauri, Raúl. *Inclusión social en la educación superior*. Ponencia presentada en el Foro Internacional: Los retos de la diversidad cultural. Políticas públicas para el reconocimiento y desarrollo de los Pueblos Indígenas. Visited on May 21, 2014 in <http://cultura.gob.pe/sites/default/files/paginternas/tablaarchivos/2013/09/inclusion-social-en-la-educacion-superior-raulcho-queperu.pdf>

⁴³ See: Correa Aste, Norma; Roopnaraine, Terry. *Pueblos indígenas y Programas de Transferencias Condicionadas (PTC): Estudio etnográfico sobre la implementación y los efectos socioculturales del Programa Juntos en seis comunidades andinas y amazónicas de Perú*. 2014. Visited on May 22, 2014 in http://publications.iadb.org/handle/11319/6381?scope=123456789/1&thumbnail=false&order=desc&rpp=5&sort_by=score&page=0&query=Norma+Correa&group_by=none&etal=0

68. The increase of the number of courts and prosecutors' offices in areas with majority presence of indigenous peoples is an undoubted advance; however, there is the need to provide them with public defender services and translation necessary for the procedures to be performed in native tongue⁴⁴. In large percentage in the provinces of the eleven regions with the highest number of Amazonian indigenous peoples, there are women's emergency centers (CEM). However, women in indigenous communities are unable to access them because of the distance, transport costs, and stay, in addition to cultural barriers and language.
69. To date there is no law establishing forms of coordination between the civilian justice and indigenous justice as Article 149 of the Constitution mandates it; however there has been progress. For example, in 2011 the Supreme Court submitted to Congress the "Intercultural Justice Act", and this year it has released a Draft Protocol for officials of the State System of Justice⁴⁵. This protocol establishes guidelines for the care and guidance from a gender perspective. It is important that this instrument should be disseminated between state and indigenous authorities, and monitoring mechanisms are established with the participation of mixed indigenous and women's organizations to make the necessary improvements and monitoring.
70. There are still a significant proportion of people without a legally recognized identity; lack of documentation prevents them from protecting their rights. According to the 2007 National Census, the percentage of undocumented immigrants of 18 years or more reaches 14.9% of the Amazonian indigenous population, 18.1% are women and 12.2% men⁴⁶. The itinerant campaigns from the National Registry of Identification and Civil Status (RENIEC) have provided documentation for many Indigenous women and girls. However, one of the common problems is the lack of resources and the inability to renew the national identity document, because the campaigns are carried out primarily for first registration and RENIEC staff does not stay long enough in the place to allow women in remote communities to have access to perform the procedure.
71. In 2011, the "Law on the Right to Prior Consultation with Indigenous or Native Peoples" recognized in the Convention 169 of the International Labor Organization (ILO)⁴⁷ was enacted and the Regulations of the Act were in 2012⁴⁸. The adoption of this standard has been assessed in general as positive. However a pending matter is to ensure the women's participation in these processes. The regulations provide that methodologies employed must consider gender, mechanisms for dialogue need to be established with indigenous organizations to incorporate their proposals in relation to women's participation, considering that among peasant and native communities, discriminatory practices persist in the traditional way of electing their representatives.

RECOMMENDATIONS: AMAZONIAN INDIGENOUS WOMEN

- Pass a law to regulate the forms of coordination between indigenous justice and ordinary justice, pursuant to Article 149 of the Constitution to ensure access of indigenous women to protection, justice, and reparation.

⁴⁴ For example, in the district of Imaza, Bagua Province, a prosecutor office and a court has been created but legal defense and translation services have not been implemented. Forensic service is still in the capital of the province, which prevents to obtain the necessary expert reviews to process cases. It is necessary, however, that after the enactment of the Law N° 29735, which regulates the use, preservation, development, recovery, promotion and dissemination of indigenous languages of Peru, public entities have the obligation to implement progressively policies and training programs or contract skilled staff in those areas where a native language is predominant. Officials and public servants, including the staff of the National Police can communicate with proficiency in that language (Article 15 paragraph 15.2).

⁴⁵ Judiciary Power of Peru, Oficina Nacional a la Justicia de Paz y Justicia Indígena —ONAJUP—; Ministerio de Justicia y Derechos Humanos; Defensa Pública y Acceso a la Justicia. *Protocolo de Atención y Orientación Legal con Enfoque Intercultural Dirigido a funcionarios del Sistema Estatal de Justicia*. 2014. Visited on May, 2014 in http://www.minjus.gob.pe/defensapublica/contenidoactividades/docs/326_28_protocolo_de_atencio%C3%ACn_final_jmd.pdf

⁴⁶ Instituto Nacional de Estadística e Informática, *ob. cit.*, p. 79.

⁴⁷ Law N° 29785.

⁴⁸ Supreme Decree N° 001-2012-MC.

- Incorporate the criterion of self-identification in national censuses and surveys, so that it can be used as an indicator of ethnicity. Include the variable sex in the production of statistical data related to indigenous peoples. Incorporated in this measurement information on the situation of indigenous women and girls.
- Strengthen the presence of indigenous women and their organizations in the areas of design, implementation and evaluation of public policy
- Implement training programs for their staff including intercultural, gender and human rights approaches.
- Ensure the presence of translators and interpreters in locations with indigenous populations; especially the appointment of women for the guidance and assistance to women, children and adolescent victims of sexual violence.

IV. LESBIAN WOMEN⁴⁹

72. In Peru there is no legislation or public policies in favor of the lesbian, gay, bisexual and transsexual and transgender people. The Committee on Economic, Social and Cultural Rights and the UN Human Rights Commission have recognized this. In the recent periodical report, the latter urges the Peruvian State to "establish clear and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, or discrimination or violence against persons based on sexual orientation or gender identity⁵⁰.
73. Article 2, subsection 2 of the Constitution, recognizes the right to equality as a fundamental right of individuals and prohibits discrimination based on sex and other grounds, such as race, origin, religion, opinion and socioeconomic status, but it does not specifically mention discrimination based on sexual orientation or gender identity. However, the Constitution provides an open clause from which it is understood that the prohibition of discrimination extends to any other reason. It is important to note that the silence that the Constitution keeps with regard to discrimination based on sexual orientation and gender identity leads to restrictive interpretations of the scope of the constitutional provision. These are expressed in the absence of explicit recognition of the rights of LGBTI people, as well as discriminatory behaviors and practices widespread both among private agents and among public officials at different levels.
74. The Code is the only Constitutional legal standard with a range of national scope that states that the right to non-discrimination based on sexual orientation is eligible for protection through the process of Amparo, but omits the gender identity discrimination. In Law 28983 on Equal Opportunities for Women and Men, sexual orientation and gender identity were excluded from the list of protected categories, leaving the heteronormative conception of the right to equality and non-discrimination clearly established. Despite efforts made by lesbian groups, the categories of sexual orientation and gender identity are not included.
75. The National Human Rights Action Plan 2006-2010 includes for the first time LGBT community in public policy at the national level; however, in the section dealing with "non-heterosexuals" discrimination based on sexual orientation is not recognized. Therefore, the need to take measures to combat and eradicate it is not recognized either. No particular outcome as "grant rights" is proposed in relation to lesbian, gay and transgender people as it is allowed to other vulnerable groups. On December 10, 2012 the approval of the National Human Rights Plan 2012-2016⁵¹ was announced; however, to date it has not been published, because there is not agreement on

⁴⁹ Report elaborated by Kolectiva Rebeldias Lesbicas and Movimiento Homosexual de Lima (MHOL) in 2011, and updated in 2014 by Kolectiva Rebeldias Lesbicas (KRL) and Lesbianas Independientes Socialistas Feministas (LIFS).

⁵⁰ In: Informe de Adjuntía N° 003-2014-DP/ADHPD, page3. http://www.defensoria.gob.pe/modules/Downloads/informes/variros_/2014/Informe-de-Adjuntia-003-2014-DP-ADHPD.pdf

⁵¹ http://www.bvsde.paho.org/documentosdigitales/bvsde/notici/PER121211_01.pdf; <http://www.larepublica.pe/01-04-2013/naciones-unidas-advierten-de-carencia-de-plan-nacional-de-ddhh-en-el-peru>

"controversial topics" such as sexual orientation and abortion, delaying its implementation and the State's obligation to guarantee the rights of LGBTI people.

76. The National Plan on Violence Against Women 2009-2015 included homophobia as a type of violence that also affects lesbians⁵²; however, no action plans or results referred to prevent and eradicate specific activities have been foreseen.
77. The National Plan for Gender Equality 2012-2017, is a public policy to ensure the enjoyment and exercise of the rights of the people without any discrimination. It intends to develop campaigns against discriminatory practices based on sexual orientation and implementation of health care protocols that integrate gender and intercultural approaches and respect for sexual orientation, but without results nor indicators for combating discrimination against lesbians nor for implementing care protocols to meet their specific needs.
78. In the absence of public health policies that include lesbian women due to the regulations of the Ministry of Health, which refers only to heterosexual women, the Lesbian Feminist Articulation of Lima has filed a Technical Proposal for Health Care for Lesbian Women in the National Guidelines⁵³.
79. There are no educational policies to address the specific situation of lesbian students. Law N° 29719 called "anti-bullying law", a legal device on violence in educational institutions is a generic standard that does not address issues such as violence or harassment motivated by sexual orientation. The Ministry of Education has a Manual on Educational Intervention and Prevention against Harassment among Students in that homophobic bullying is recognized and provides ex post measures to address it, but no preventive measures⁵⁴. This situation puts LTGBI students under vulnerable conditions to address lesbo-homo-transphobic bullying.
80. In Peru there are no official data or studies on the situation of LGBTI people. In 2013 the Registration of households and dwellings in Lima and Callao by the National Institute of Statistics and Informatics INEI, had a protocol with an express indication of not recognizing same sex couples as a couple or as a family, which constitutes an infringement of the right to equality and non-discrimination from the State itself. These facts were reported by lesbian and feminist organizations in due course⁵⁵.
81. The small number of cases of discrimination and violence that are reported to the police authority or which are handled in the justice system, are closely related to the abuse that they often receive from operators of services because of their sexual orientation.

V. TRANSGENDERED WOMEN⁵⁶

82. Discrimination based on gender identity was evidenced on the 2008 Annual Report of the National Coordinator for Human Rights⁵⁷, which states that violence perpetrated against people in the LGBT community occurs throughout the country at the State and social indifference. This violation of rights cannot be measured in its real magnitude, as there are no official statistical records, which in turn prevents a diagnosis that allows to raise adequate measures to prevent, investigate, prosecute and punish these practices. Often the acts of violence are not punished, as many perpetrators are often

⁵² Ministry of Women and Social Development, *Plan Nacional de Violencia contra la Mujer 2009-2015*, pp. 5 y 14.

⁵³ <http://lifsperu.blogspot.com/2014/03/version-digital-de-la-propuesta-tecnica.html>; <http://lifsperu.blogspot.com/2014/03/presentacion-de-la-propuesta-tecnica.html>

⁵⁴ In *Informe Anual sobre Derechos Humanos de Personas TLGB en el Perú 2013-2014*, p. 63-64 <http://promsex.org/images/docs/Publicaciones/InformeTLGB2013-2014.pdf>

⁵⁵ Collective Rebeldías Lésbicas (KRL) and Alianza Perú from the Campaign for an InterAmerican Convention for Sexual Rights and Reproductive Rights, denounced these facts to the Ombudsman Office e INEI. In: <http://www.krl-peru.blogspot.com/2013/07/exigen-inei-corregir-norma-que-excluye.html>; http://www.krl-peru.blogspot.com/2013_07_01_archivo.html

⁵⁶ Report elaborated in 2011 and updated in 2014 for this session by Instituto RUNA

⁵⁷ Coordinadora Nacional de Derechos Humanos, *Informe Anual 2008: El difícil camino hacia la ciudadanía*, Lima, March 2009, pp. 87-90.

state agents themselves (police and members of municipal law enforcement), in front of which the prosecution is not very proactive in hosting complaints that invariably end being filed. The most vulnerable population consists of transgender women in prostitution who are exposed to aggression, blackmail, robbery and arbitrary arrests by serenazgos⁵⁸ and municipal police officers.

83. In the country there is a great lack of standards that include gender identity discrimination as a concern. There is even the presumption that the next National Plan on Human Rights will not contain these issues because the context of opposition is very strong. On the other hand, the Constitutional Court behind the international jurisprudence has rejected the request of transgender people about sex change; the Court says that they suffer a pathology and opens a dangerous door to curative treatment to suit their gender identity to their birth sex, thus violating their freedom and autonomy.
84. The particularity of transgender women is not recognized as part of the diversity of forms that shape the identity "woman". This does not allow it to be taken into account in the formulation of public policy to ensure their rights and to ensure their full development and advancement.
85. There are not academic and emotional support strategies for transgender students in transgenering condition; they are not considered neither in the educational guidelines nor in the teaching guidelines for comprehensive sex education. The educational community marginalizes, mocks and harasses transgender students, promoting school dropout and causing progressively a low self-esteem that will affect their life development.
86. The job market is an extremely restricted field for transgender women, and in the best, they are relegated to stereotyped activities such as sewing, cleaning, cooking and beauty. According to information gathered by Runa Institute in Lima, from a total of 119 transgender people who were contacted, work in salons and printers represented, respectively, 3% and 1% of the total, while the main occupation was the sex trade, which reached 94%⁵⁹. The stigma attached to a person engaged in the sex trade is even stronger in the case of a transgender woman whose social mobility is restricted because of discrimination and marginalization⁶⁰. The great number of transgender women in the sex trade is shaped by the discriminatory standards set forth for employment access and unfavorable working conditions offered. The chances of getting a job are reduced because of the assumed identity condition, against which social discrimination and exclusion mechanisms are activated.
87. Health care does not meet the needs and particularities of transgender women, since it is designed to cisgender patients. In addition, health care is only aimed at the prevention and control of HIV, when field learnings have shown that a comprehensive health approach optimizes the outcomes of primary epidemiological approach.
88. Programs to combat violence against women do not include transgender women in the figure of domestic and sexual violence. It has been shown that some forms of aggression, such as insults and humiliation, are generally perceived by the transgender as inevitable, as they are associated with the identity of the assumed gender or as part of their daily lives, so that at "naturalize" them they see no need to express them. They only report severe cases as beatings causing considerable damage or assaults resulting in injury.
89. There are numerous cases of family violence as a result of the process that involves moving to another gender. The stories recorded show beatings by siblings or cousins and even parents.

⁵⁸ Municipalities' security force.

⁵⁹ This information should be taken only as reference as it was basically gathered in those areas with high prevalence of sex trade.

⁶⁰ Instituto Runa de Desarrollo y Estudios sobre Género, p. 5.

RECOMMENDATIONS: LESBIAN WOMEN AND TRANSGENDER WOMEN

- Include sexual orientation and gender identity as protected categories in the Equal Opportunities between Women and Men. Provide legislation to guarantee the change of name in the ID, the non-discrimination based on sexual orientation and gender identity and the Civil Union No Marriage Act.
- Amend the Criminal Code in order to criminalize hate crimes motivated by sexual orientation and gender identity.
- Incorporate in the National Plan to Combat Violence against Women, in the National Plan on Human Rights, and in the Citizen's Security Plan, measures to address discrimination based on sexual orientation and gender identity; prevent arbitrary detention and abuse of authority; and ensure their rights to free passage, work, and education without discrimination.
- To promote, coordinate and execute the signing of agreements that contribute to the strengthening of a culture free from all forms of discrimination, with emphasis on those based on sexual orientation and gender identity in the country.

VI. MIGRANT WOMEN⁶¹

90. Since the last decade, in Peru there a feminization of the migration process has occurred. Peruvian women who have migrated abroad are: 1,228,322, representing 52.7% of the population migrated⁶².
91. Almost half of them were single, about 593,332 women⁶³. This brings new partner relationships built in the country of destination as well as a new family problem, especially regarding the status of the children born in the context of these relationships. Most Peruvian migrant women are involved in migration chains that are embedded in a system of care in both countries of origin and destination.
92. Violence against women in destination countries is not sufficiently investigated and consular services do not have policies to meet Peruvian women abroad. According to the Ombudsman: "... women migrants, in their capacity as such, are in a special situation of helplessness that manifests in hazards and risks throughout the migration process, victims of trafficking, theft, neglect and sexual abuse"⁶⁴.
93. The International Convention on the Protection of the Rights of All Migrant Workers and Their Families⁶⁵ was adopted in Peru through Legislative Resolution N° 28602 on September 10, 2005. It has been ratified by countries such as Argentina, Chile, Bolivia, and Ecuador, but not by others that are also important destinations of Peruvian emigration, which sets a worrying situation as Peruvian migrants are more exposed to abuse and vulnerability in destination countries that have not ratified this instrument.
94. The Ombudsman notes that the abusive conditions of employment and underemployment in cases in which the Peruvian migrants are in an irregular situation is a recurring problem. There are many employers who take advantage of this to avoid payment of statutory minimum wages and payment of social benefits⁶⁶. Moreover, considering that the situation of irregularity increases informality, it is highly likely that workers are subjected, as part of a trial period that can be extended indefinitely, to exhausting days and wages below the minimum established⁶⁷.

⁶¹ Report elaborated in 2011 and updated in 2014 for this session by Centro de la Mujer Peruana Flora Tristan and Red Peruana de Migración.

⁶² Instituto Nacional de Estadística e Informática - Organización Internacional para las Migraciones – Ministerio de Relaciones Exteriores, Perú: *Resultado de la Primera encuesta mundial a la comunidad de peruanas en el exterior*, Lima, 2013, p.30.

⁶³ Instituto Nacional de Estadística e Informática- Dirección General de Migración y Naturalización – Organización Internacional para las Migraciones, Perú: *Estadísticas de la emigración internacional de peruanos e inmigración de extranjeros 1990-2009*, Lima, 2010, p. 24

⁶⁴ Defensoría del Pueblo, Informe Defensorial N° 146. *Migraciones y derechos humanos. Supervisión de las políticas de protección de los derechos de los peruanos migrantes*, Lima 2009, p. 37.

⁶⁵ Approved by the United Nations General Assembly through resolution 45/158, dated December 18, 1990.

⁶⁶ Defensoría del Pueblo, ob. cit., p. 59.

⁶⁷ *Ibid.*, p. 62.

95. Migrant women carry out care work and domestic labor in destination countries: United States, Spain, Chile, and Argentina. Therefore, the ratification of Convention 189 on *domestic workers* from the International Labor Organization would improve their situation and the exercise of their rights. "Peru exports caregivers, especially female caregivers in large quantities. Following their departure, there is a return: money, learning opportunities, more access to certain goods. There are returns that even cannot be named nor measured and probably would have to be placed in the context of human development. They refer to processes of personal growth and performance of new ownership and operations", said Anderson in a study for UN Women⁶⁸. It is necessary to ensure the exercise of the rights of women abroad and their families, strengthening its links with Peruvian communities abroad to strengthen public participation in decisions that affect them.
96. In 2013, Law N° 30001, Law of economic and social reintegration for the returnee migrant was passed which since the title itself does not recognize migrant women and the Ministry of Women and Vulnerable Populations was not incorporated as the main sector that ensures the reintegration of women returnees. The bill for the creation of electoral district for Peruvians living abroad was approved within the Congressional committees, with two representatives; the initiative is to be adopted in plenary. The bill does not specify the implementation of the gender quota.
97. With respect to the feminization of migration, the following can be highlighted: (1) Belatedly, there are sex-disaggregated reports by the National Institute of Statistics and Informatics, Statistics in the report *Estadísticas de la emigración internacional de peruanos e inmigración de extranjeros 1990-2009*. And, *Perú Remesas y desarrollo* report shows disaggregated contribution of women in remittances to Peru, in a recent study of 2010. (2) Multi-sectorial roundtables in charge of migration policies do not incorporate women's organizations and have no gender focus; (3) The National Plan for Gender Equality has no policy on female migration.

RECOMMENDATIONS: MIGRANT WOMEN

- Adopt the National Plan for Gender Equality 2012-2017, a migration policy from a comprehensive perspective of the phenomenon of human mobility, with a gender perspective. The National Plan against Violence towards Women 2009-2015 must adopt a comprehensive policy providing twenty-four hour attention for Peruvian women abroad victims of gender violence.
- The ratification of the International Labor Organization's Convention 189 on workers and domestic workers.
- Ensure that a woman is in charge of one of the two parliamentary delegations abroad.

Part I: Article 6

Obligation to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

TRAFFICKING⁶⁹

98. Trafficking, especially of women and young adolescents is increasingly visible in the country. However, official figures⁷⁰ require harmonization, comparability and transparency, so that there is no doubt about its veracity. Underreporting remains due to deficiencies in the identification of cases or the lack of access by victims to public services. This limits the State's decision-making.

⁶⁸ Jeanine Anderson "La migración femenina Peruana en las cadenas globales de cuidados en Chile y España: transferencia de cuidados y desigualdades de género", Lima 2012, p.201.

⁶⁹ Report elaborated in 2011 by Capital Humano y Social (CHS) and Movimiento El Pozo, and updated in 2014 for this session by CHS.

⁷⁰ The Ministry of Interior's Registry and Statistics on Crime of Trafficking and Related System (RETA) does not publish official figures since April 2012, although there is a legal mandate providing this obligation. The Public Ministry through the Crime Observatory implemented, in 2013, a trafficking registration system (SISTRA), which periodically issues a report.

99. Since 2007, Peru has a specific regulatory framework to address trafficking, especially in the criminal field. Although described, its development is required in management tools in both planning and budgeting aspects and operational. Public budget for trafficking does not exceed two million soles in the level of national government, or two hundred thousand soles in the regional and local level. These are precisely the territorial areas where the problem manifests itself more seriously. Several cases of malpractice and corruption of officials have been brought out by media and civil society organizations. Human trafficking has increased its ties to other crimes such as money laundering and prostitution. There are gaps and omissions with respect to compliance with the obligations the State have imposed itself through various legal devices.
100. **Prevention:** The Ministry of Education has incorporated the issue in the calendar of school activities for September. The Ministry of Foreign Trade and Tourism implemented a Prevention Program of Sexual Exploitation of Children and Adolescents in the National Tourism Direction. The Ministry of Transport and Communications incorporated control standards in removals of children in the roads in the National Transport Administration Regulations. However, it lacks compliance, particularly in regional routes. The transportation by river does not have control mechanisms in the case of minors.
101. The Ministry of Women and Vulnerable Populations is currently working on developing a technical document intra sectorial to improve detection and care of victims. The Ministry of Health has plans to implement a technical standard to overcome the weakness in the identification of victims in their services. The Ministry of Labor and Employment has strengthened labor inspection; however, though representing the most used means to capture victims, it does not have any facilities to verify fake jobs in the informal sector of the economy.
102. **Assistance and protection of victims:** The Ministry of Justice and Human Rights regulates the right of victims to enjoy free legal assistance throughout the process, which is expected to result in increased economic reparations. The Prosecution has a Unit Assistance and Protection of Victims and Witnesses, as part of the progressive implementation of the new Criminal Procedure Code.
103. However the above described, regulatory changes of administrative nature are necessary to include budget chains and financial solutions that meet the needs of victims. The incorporation of an intercultural component to interventions, especially with Andean and Amazonian indigenous peoples is required.
104. **Prosecution and sanction:** Since 2008, the Ministry of Interior counts with the Division of Research of Crimes against trafficking-DIVINTRAP. It has a Public Attorney Specializing in Laundering Process and Lost Domain, in which scope it included Trafficking.
105. The main deficiencies observed in the application of criminal law, are referred to the use of research resources offered on the subject. Thus, cases are mostly supported by the declaration of the victims, many of them children. In court, there are still errors in typification. The application of sentences under the legal minimum and the assignment of negligible civil repairs remain in this State power; and are evidence that the rights of victims are not fully respected in the welfare subsystem. The State has major deficiencies regarding the **protection of victims**. It is essential to intensify efforts to protect and assist victims, because once they are rescued they do not receive the services they are guaranteed by law.

RECOMMENDATIONS: TRAFFICKING

- Establish an office responsible for the implementation and monitoring of public policies in the field of Trafficking in Persons, in the Presidency of the Council of Ministers, ensuring the political support that the subject requires; and the strengthening and modernization of the management capacity of public policies.
- Incorporate public policies against trafficking under the budget outcomes strategy. Establish special policies and programs, with criteria of protection and reserve for victims of trafficking, and facilitate their employment.
- Raise the level of the Research Division of the crime of Trafficking in Persons to the National Direction.
- Strengthen municipal regulation so it can prevent, intervene, and sanction. Improve the skills of municipal staff to meet the legal resources used by traffickers.
- Include bilateral agreements with neighboring countries for assistance and protection of victims, especially minors. These standards should consider the Palermo Protocol and those of human rights.
- Guarantee due diligence in the prosecution of cases of trafficking in women, avoid impunity and punish the perpetrators and accomplices of this crime.

Part II: Article 7

Obligations to take all appropriate measures to ensure women the right to participate in the political and public life of the country, in equal terms with men and without discrimination

POLITICAL PARTICIPATION OF WOMEN⁷¹

106. Currently, the Peruvian political system is comprised of 12,618 elected officials, of which 2995 are women, most of them belonging to district municipalities, located at the base of the smaller, less resource spaces and opportunities. There are 2410 district councilors and 59 women mayors who constitute 82.43% of female representation. At a second level, there are nine provincial mayors and 406 councilors, followed by a regional president⁷², two regional vice presidents, 72 counsellor and, finally, 29 Congresswomen. At this second level, 17.0% of officers are women, representing 4.0% of authorities in general. Female representation remains low for a population of 14'802,000 women.

107. In recent years, the regional governments have developed national policies on equal opportunities between women and men in political participation. To date, according to information from the Ombudsman's Office⁷³, 13 of the 25 regional governments have regional plans of equal opportunities between men and women and all of them include provisions referred to the promotion of political participation of women⁷⁴. Seven are under development and in five regional governments; the term of this regional public policy has been completed. Two regional governments have approved their plans. However, as noted by the Ombudsman, the implementation of regional policies on equal opportunities between women and men faces a number of difficulties, such as high mobility of staff and lack of budget. Political will, expressed in the approval of the plans, does not translate into specific and sufficient budgetary allocations, so that its execution ends up being in the best, partial. For example, in fiscal year 2010, only four regional governments approved budget to implement its plans for equal opportunities⁷⁵. This shows that, while there are advances in regional planning, yet few regional governments that are actually committed to equal opportunities between men and women, but they do not guarantee the necessary resources for the implementation of regional

⁷¹ Report elaborated in 2011 by Movimiento Manuela Ramos and Centro de la Mujer Peruana FLORA TRISTAN, and updated in 2014 by CMP Flora Tristan.

⁷² This is the case of The Metropolitan Municipality of Lima, which is a district, provincial and regional government at a time.

⁷³ Ombudsman Office. Informe N° 009-2013-DP/ADM. Sexto informe sobre el cumplimiento de la ley de Igualdad de Oportunidades entre Mujeres y Hombres. Lima, November, 2013.

⁷⁴ Movimiento Manuela Ramos. Políticas Públicas regionales. Planes regionales de igualdad de oportunidades entre mujeres y hombres, avances y nudos críticos en su implementación. Lima, December, 2011.

⁷⁵ Ombudsman Office, *Cuarto Reporte sobre el cumplimiento de la Ley de Igualdad de Oportunidades (2010). Supervisión de los presupuestos de los gobiernos regionales*, Serie Informes de Adjuntía - Informe de Adjuntía N° 001-2011/DP-ADM, Lima, 2011, p. 94.

policy. Therefore, the recommendations of the Ombudsman to regional governments are to approve or increase budgetary resources for reducing gender gaps and prioritize the allocation of budgetary resources for program activities to reduce this way of discrimination⁷⁶.

108. In 1997, gender quota was incorporated within Peru's electoral law, which applies to the composition of electoral lists but does not ensure the election of women to political representation they postulate. Today, this quota is equivalent to 30.0% of the voters for the nomination to Congress⁷⁷, the Andean Parliament⁷⁸, the regional councils of regional governments⁷⁹ and the municipal councils of local governments⁸⁰ (provincial and district). For the primary elections, it has also been established that political organizations should make the selection of candidates that would represent them in the electoral process as well as who will play in leadership positions within them⁸¹.
109. The new Congress, elected in April 2011, has 130 representatives in Single Chamber. In the new parliamentary representation there are only 28 women, representing 21.53% of all elected congressmen. If the election results of the previous two congresses are taken, it can be seen that female representation in Congress fails to overcome the barrier of 30%. Indeed, in government periods 2001-2006 and 2006-2011, women represented, respectively, 18.0% and 29.0% of all elected congressmen.
110. Currently, during each election, rules for the application of electoral gender quota are issued, which does not guarantee that the positive criteria adopted for previous elections remain over time. A working group⁸² that drafted a proposal for a comprehensive law to regulate the implementation of the electoral gender quota was formed in August 2010. The proposal incorporates and consolidates a senior standard criteria established by the election authority during each election process and includes alternating for the location on the electoral lists. Furthermore, the same Executive has submitted a bill for the adoption of alternation as well as member of congress from different parties. To date, no projects have been discussed and the 2014 regional and local elections will be held under the same rules and constraints for effective election of women in elected positions.
111. The standard applied by the special electoral juries -shaped for each electoral process- in the registration of candidate lists is uneven, despite that the failure of the gender quota is an impediment to registration. According to the Ombudsman, in regional and municipal elections of 2006, of the 225 lists presented in the regional elections, 45 (20%) did not meet the requirement, however, they were registered, with the aggravating fact that 12 of them placed candidates in regional councils⁸³. For municipal elections, 127 provincial lists (7.7%) were registered despite having been submitted in violation of the gender quota and 22 of them placed councilors, men and women, in the municipal council⁸⁴. This phenomenon was repeated in regional and municipal elections of 2010. In a first report of the *Observatory of Electoral Process 2014*⁸⁵ it was reported that in the case of Lima districts in the last three elections of 2002, 2006 and 2010, there was a breach of 12.0% in the gender quota and for the case of Cusco 3.0%. JNE does not record what measures were taken to ensure compliance.

⁷⁶ Ombudsman Office. Informe N° 009-2013-DP/ADM. Sexto Informe sobre el cumplimiento de la ley de Igualdad de Oportunidades entre Mujeres y Hombres. Lima. November, 2013.

⁷⁷ Organic Electoral Act, Law N° 26859.

⁷⁸ Election of Representatives to the Andean Parliament Act, Law N° 28360.

⁷⁹ Regional Elections Act, N° 27683, modified by Law N° 29470.

⁸⁰ Municipal Elections Act, N° 26864 and amendments thereto.

⁸¹ Political Parties Act, N° 28094 and amendments thereto.

⁸² With regard to a case before the Inter-American Commission on Human Rights for breach of the gender quota for elections to Parliament in 2001.

⁸³ Ombudsman Office, *Informe Defensorial N° 122 "La Cuota de Género en el Perú: Supervisión de las Elecciones Regionales y Municipales Provinciales 2006"*, Lima, 2007, pp. 86 y 99.

⁸⁴ *Ibid.*, pp. 90 y 103.

⁸⁵ Observatorio Proceso Electoral 2014, Flora Tristán, Calandria, Diakonia. First Report.

112. Part of the problem lies in the policy formulation. Unlike comparative law, which refers exclusively to women, in Peru gender formula was adopted, meaning, "gender" as equivalent to "sex". While recognizing that electoral gender quota is in the nature of affirmative action, this wording led the National Elections Board, to consider that this is true including women or men⁸⁶. However, for regional and municipal elections of 2010 the criteria varies⁸⁷, so it is necessary to consolidate and match all the criteria in a rule having the force of law.
113. It is important to consider that the national ID is a fundamental exercise of the right to political participation requirement. The National Plan of Undocumented Problems Care 2011-2015 states that as at 30 April 2010, women constituted the highest percentage of undocumented people (56.6%).
114. A growing problem faced by women politicians, either as candidates or as management authorities, is political harassment by their peers, other men authorities who subject them. In order to prevent, punish and eradicate such violence against women, the National Network of Women Authorities -RENAMA, made a proposal that was eventually presented as a bill that until now has not been debated⁸⁸.
115. In 2012, it was reported⁸⁹ that in Peru, two in five women authorities are victims of political harassment. 71.0% of cases of stalkers are regional presidents and mayors, 48.0% are regional councilors or advisors, 14.0% are civil servants, 24.0% the press. As to the way of harassment, 5% of victims have suffered from physical abuse, 57% psychological abuse, 10% for sexual harassment, 14% for slander of a sexual nature, 19% for slander of intellectual nature, 24% for slander of monetary value, and 48% by coercion through administrative mechanisms.

RECOMMENDATIONS POLITICAL PARTICIPATION OF WOMEN

- Pass a law that guarantees the implementation of the electoral quota for women, the alternation in the location within the lists and training of members of the special electoral juries.
- To approve the law against political harassment of women in politics, and register complaints filed.

Part III: Articles 10 and 14, numeral 2d

Obligations to take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women, especially girls and women from rural areas

EDUCATION OF GIRLS AND ADOLESCENTS FROM RURAL AREAS, VIOLENCE AND SCHOOL DISCRIMINATION AND WOMEN'S ILLITERACY⁹⁰

116. Gender inequality in education persists both in terms of opportunity gaps as in forms of discrimination affecting all girls and adolescents and, to a greater degree, those living in situations of poverty and vulnerability. The disadvantage gender discrimination brings to girls accumulates in their life cycle and is projected to adulthood in higher levels of inequality⁹¹.

⁸⁶ Resolution of the National Jury of Elections N° 503-2009-JNE (7.8.2009): "Article 1 - The quotas are positive steps to accelerate the inclusion of women, youth and the natives, who, historically, have always been excluded from participate in this field"; "Article 4 - Gender quota provides that not less than thirty percent (30%) of the list of candidates for council should be composed of men or women".

⁸⁷ Resolution of the National Jury of Elections N° 247-2010-JNE (20.4.2010): *Definitions: d. Electoral quotas: Percentages established by law to ensure the participation of groups historically excluded from the electoral process...*

⁸⁸ Bill N° 1903 presented by Congresswoman Verónica Mendoza.

⁸⁹ Informe del Estudio sobre Acoso Político hacia las mujeres en el Perú. Prepared by Tammy Quintanilla for Centro de la Mujer Flora Tristán, Diakonia Peru and Calandria, Lima, September 2012.

⁹⁰ Report elaborated in 2011 by Movimiento Manuela Ramos, Red Florecer and Aurora Vivar. Updated in 2014 for this session by Movimiento Manuela Ramos.

⁹¹ Recomendaciones de Política de Género en Educación. Red Florecer. Lima, November, 201 pp. 4. Elaborated by Teresa Tovar for CARE- Perú.

117. One million four hundred and fifteen thousand girls and adolescents live in rural areas⁹². National averages do not show gender inequalities that persist in these areas, which are reflected in enrollment, overage, repetition and dropout rates, among others. After the enactment of the Act to Promote the Education of Rural Girls, there has been little progress and serious limitations in its fulfillment have been identified. One limitation to structure a comprehensive view of the state of education of rural girls, is the absence in the official figures of available information disaggregated by sex and urban-rural for regional, provincial and district levels, which are the spaces where gender inequality concentrates and is hidden. Among the many dimensions that embrace gender inequality in education, the following are key aspects where this inequality requires particular attention:
118. **Completion of initial and secondary education:** There are more boys and girls enrolled in early education as there were 10 years ago, seven out of 10 are in the school system. However, from every 10 children from 3-5 years of age living in rural areas, four or five are not enrolled in early education⁹³, so they reach primary school with a disadvantage. There are regions where this problem is more serious: in Huánuco, Amazonas and Puno, half of children aged 3-5 years old are out of school. It is a disadvantage that extends and has consequences for the primary, where one of four rural girls/boys present overage or school delay, i.e. older age in two or more years to the established age for the degree course.
119. Almost all children in rural areas complete primary education. However, this is not so in high school. For every 100 adolescent males in rural areas eventually culminating high school, only 82 women succeed. This index shows greater disadvantage in regions such as Loreto, Huancavelica, Ayacucho, Cajamarca, and Ucayali⁹⁴. Only 57.8% of women who speak a native language and are living in rural areas access to enrollments at the secondary level, compared with 66% of men in the same condition⁹⁵. When a girl does not finish high school at the appropriate age is much harder to achieve it years later, as a set of disadvantages accumulate in their life cycle. Consequently, women older than 24 years of age in rural areas have fewer degrees than men have and form a population poor, vulnerable and excluded from the development possibilities⁹⁶.
120. **Comprehensive sex education:** During 2008 and 2009, technical advice, advocacy and workshops on issues of comprehensive sex education were conducted and materials and guidelines on mentoring in this field for parents, teachers and students have been produced. However, the fact is that such services and supplies are intended for the educational community of the urban area. Another limitation is that the actions of comprehensive sex education are not developing at baseline level according to the social, cognitive and psychological development of children, even though the curriculum so provides.
121. **Violence and sexual harassment and girls and adolescents:** Although in recent years, the State has adopted a policy⁹⁷ to meet its obligations to protect children and adolescents from all forms

⁹² Between 0 to 17 years old.

⁹³ According to the National Household Survey 2009, National Institute of Statistics and Information, the net enrollment rate in initial education reaches 66.3% of children aged 3-5 years nationally. Despite being progressively increased during the last decade, there remains a significant gap in the care of this age group. For the rural population, the rate is reduced by more than 11 percentage points (55%) compared to the national average. Rural girls (55.7%) have a somewhat better situation than their male counterparts (54.3%).

⁹⁴ "Programa Estratégico de eliminación de las desigualdades de Género en la Conclusión Oportuna en el Nivel de Educación Secundaria en zonas rurales y con población indígena", Ob. cit.

⁹⁵ INEI and Movimiento Manuela Ramos, Brechas de género, Insumos para la adopción de medidas en favor de las mujeres, 2010. Cit. by Plan de Igualdad de Género 20012-2017, MIMP 2013

⁹⁶ Recomendaciones de Política de Género en Educación. Red Florecer, Lima, November, 2013 pp. 5. Elaborated by Teresa Tovar for CARE- Perú.

⁹⁷ Within these regulations are: Law N° 27558, Law for the Promotion of Education of Rural Girls, which instructed the Ministry of Education to establish actions to prevent and punish sexual abuse against rural girls in the education field; and Law N° 29062, Law of Educator with regard to the Public Educator and their regulation, which provides the disciplinary proceedings to suspend the teacher when he is the subject of an administrative complaint or termination of employment if he has committed harassment or sexual acts against the integrity and sexual freedom. It should be noted as a positive development that among the requirements to enter the public teaching career requires not have been convicted or be subject to any criminal prosecution of a felony. Ministerial Resolution N° 405-2007-ED, which establishes the "Guidelines for action in case

of violence (physical, psychological and sexual) in schools, through the establishment of appropriate administrative disciplinary proceedings⁹⁸, violence is prevalent in Peru, especially sexual violence⁹⁹.

122. Despite complaints and campaigns, girls still face multiple situations of violence. There is a dramatic increase in cases: from 11,611 cases of children and adolescents treated in the Women's Emergency Centers - EMC in 2010 for domestic and sexual violence, 66% are girls¹⁰⁰. 94% of victims of sexual violence in the country are women, of which 77 percent are children and adolescents under 18 years¹⁰¹. 91% of trafficking victims are women, and half of them are children and adolescents¹⁰². Undoubtedly, one of the consequences sexual violence has for girls is teen pregnancy where the numbers remain at a level of 13.5 % in the last 10 years¹⁰³. This percentage is higher in rural areas (19.3 %) and in Amazonian regions rises to 30 %¹⁰⁴.
123. **Teen pregnancy:** Pregnancy and early motherhood are factors behind dropout among adolescents, and this is often the result of discriminatory practices that are widespread not only among teachers but also among students.
124. One of the responses of the State, has been the adoption of Law N° 29600¹⁰⁵ in October 2010. Through this legislation, the spell or restriction of the access of pregnant or mothers students to the school system has been banned. In addition, it binds educational institutions to generate indicators on progress in the implementation of methods to prevent and eliminate all forms of discrimination on grounds of pregnancy or maternity. However, it does not point sanctions for violators. A system of grants or assistance to ensure access to continue studies is also established.
125. **Hidden curriculum:** The gender equality policies in Peru have focused on the opportunity gaps and neglected the educational process. As the differences of inclusion of women in the education system are solved, the problem is no longer that of "how many girls are enrolled" and becomes what is the quality of education and the learning environment and how it is counteracting or not systematic and invisible discrimination contained in it. Ethnographic studies reveal the persistence of gender stereotypes in school culture, and ways of functioning of educational establishments¹⁰⁶. Also, there is no gender perspective in the actions and proposals of teacher training and good teaching performance¹⁰⁷.

of physical and/or psychological, sexual harassment and/or violation of sexual freedom to students of educational institutions", was also approved.

⁹⁸ Ombudsman Office, *Informe Defensorial N° 147. Aportes de la Defensoría del Pueblo para una educación sin corrupción*, Lima, 2009, p. 224.

⁹⁹ Only in 2005, the year of the creation of CADER, 11,124 complaints against teachers and staff of campus in Lima were recorded, as the Ministry of Education reported. Taken from: <http://www.larepublica.pe/archive/all/larepublica/20110102/33/node/315303/todos/13>. From January to December 2010, the Commission for the Attention of Complaints and Grievances (CADER) had received 415 complaints of indecent acts with minors. Of this total, 199 were filed, 128 passed to the Administrative Processes Committee (COPROA) to determine the penalty, 23 were derived to other units, 4 were dismissed and 61 are still pending. Taken from: <http://www.larepublica.pe/archive/all/larepublica/20101215/1/node/310510/total/01>

¹⁰⁰ MIMP, Centros de Emergencia Mujer, Informe 2012

¹⁰¹ MIMP, Centros de Emergencia Mujer, 2012, Estado Mundial de las Niñas 2012: Aprender para la vida", Plan Internacional, 2012

¹⁰² Sistema de Registro y Estadística del Delito de Trata de Personas y Afines (RETA), Ministerio del Interior, Oct. 2011, <http://www.chsalternativo.org/contenido.php?men=L&pad=33&pla=1&sal=2&id=E>

¹⁰³ INEI, ENDES 2010.

¹⁰⁴ *Recomendaciones de Política de Género en Educación*. Red Florecer, Lima, November, 2013 pp. 5. Elaborated by Teresa Tovar for CARE- Perú.

¹⁰⁵ Regulated by Supreme Decree N° 002-2013-ED. Published on March 27, 2013.

¹⁰⁶ Giuliana Espinosa, *Currículo y equidad de género en la primaria: Una mirada desde el aula. Estudio realizado en tres escuelas estatales de la ciudad Lima*, GRADE, 2004. Stromsquist, N. (2003). *Las políticas educativas y el género en la actualidad peruana*. Unpublished material prepared for the Pontificia Universidad Católica del Perú's Diploma in Gender Studies. Tovar, T. (1998). *Sin querer queriendo. Cultura docente y género*. Lima: Tarea. Sara Lafosse, V., C. Chira y B. Fernández. (1989). *Escuela mixta: Alumnos y maestros la prefieren*. PUCP. Ames, Patricia. Editor. (2006). *Las brechas invisibles. Desafíos para una equidad de género en la educación*. UPCH, IEP. Lima. Anderson, Jeanine. (1983). *Los textos escolares y la marginación femenina*. In: Autoeducación, Year 3. N° 6.

¹⁰⁷ *Recomendaciones de Política de Género en Educación*. Red Florecer, Lima, November 2013 pp. 5. Prepared by Teresa Tovar on behalf of CARE-Perú.

126. **Coexistence without violence in educational institutions:** In June 2011, the Law N° 29719¹⁰⁸ entered into force. Despite the relevance of this rule is necessary to address this issue from a gender perspective, considering, among other aspects, that are girls and young women who suffer differentially in such violence within educational institutions.
127. **Illiteracy:** Illiteracy in Peru is still a problem that mostly affects women. For 2009, the data from the National Household Survey¹⁰⁹ indicates that the national illiteracy rate of the population aged 15 and above, remains higher among women (11.7%) than in men (3.7%) aged 15 and above. Illiteracy is also higher among women than among men in urban and in rural areas as well as on the coast, in the mountains and Amazon, with gaps in rural areas and in the mountains that reach 20.5 and 15.7 percentage points respectively.
128. In order to develop actions aimed at eradicating illiteracy in the country, the National Mobilization for Literacy Program -PRONAMA was created on September 9, 2006¹¹⁰, as an Executive Unit of the Ministry of Education. After obtaining the results of a survey conducted by Ipsos Apoyo, in which it was stated that 19 provinces and the Constitutional Province of Callao had reached the international standard of achievement for literacy of the population, declared 13 June¹¹¹ of each year as the "Day of Peru's Illiteracy free". This has been criticized by experts who have suggested the need to review the program, noting that is not enough to teach reading and writing but the key is to combat functional illiteracy¹¹².
129. In the field of access to technical professional education there persist stereotypes on typical or proper occupations for women and men. While there is greater flexibility and openness to incorporating men in activities typically considered feminine, no changes are observed in incorporating women in typically masculine activities. This permanence is due, among other factors, to education, educational culture, and socialization. Major players in the first two fields are the educational authorities and teachers themselves, who in their superior education do not have courses that include gender as a category of analysis, so they cannot bring changes in education and in daily technical professional education.
130. **WOMEN: Education, science and technology:** In Peru, the percentage of women in scientific research is 30%. They represent only 27% in engineering or science, as most studies specialties that reinforce stereotypes of women¹¹³. According to PISA 2012, the performance of women of 15 years old in science is less than that of men. Therefore, it is necessary to develop gender inclusive pedagogical proposals that especially integrate girls to scientific and technical knowledge as well as have people who implement them.

RECOMMENDATIONS: EDUCATION OF GIRLS AND ADOLESCENTS FROM RURAL AREAS

- Comply with Law N° 27558, Law for the Promotion of Education of Rural Girls in order to realize the right to education of girls and adolescents in rural areas, ensuring equity in access and quality of educative service, their admission to school at a timely age and permanence until complete secondary education. Allocate resources to implement this. Combat functional illiteracy.
- Statistical data on education, permanence, gender, and ethnical origin.

¹⁰⁸ Law that promotes coexistence without violence in educational institutions, establishing mechanisms to address bullying among students. On June 3, 2012, was published the regulations of the Law by Supreme Decree N° 010-2012-ED.

¹⁰⁹ Instituto Nacional de Estadística e Informática, *Información Sociodemográfica. Evolución de los Indicadores de los Objetivos del Milenio al 2009*. In: <http://www.inei.gob.pe/Sisd/index.asp>

¹¹⁰ Supreme Decree N° 022-2006-ED, September 2006.

¹¹¹ Approved by Supreme Decree N° 013-2011-ED, June 2011.

¹¹² Functionally illiterate is a person who, knowing to read and write simple sentences, does not possess the necessary skills to meet the demands of everyday life and function personally and professionally. For the UNESCO, functional illiteracy also involves the inability to carry out any activity for which the continued ability to read, write and do calculations is required for properly function of the group and community. Taken from: <http://www.minedu.gob.pe/educacionparatodos/InfoGen.php>.

¹¹³ In technical education centers in North Lima, 90% women study Personal Aesthetics while almost 90% of men studied Construction.

- Develop policies with a gender and intercultural focus for the prevention and treatment of physical, psychological, and sexual violence against girls and adolescents in all educational levels, allocating the budget required for this purpose.
- Comply with the provisions of Law N° 29600, which prohibits discrimination against pregnancy and maternity students in educational institutions.
- Ensure that rural girls can move safely from home to school and vice versa

Part III: Article 11

Obligations to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights

WOMEN AND EMPLOYMENT¹¹⁴

131. Peru does not have a Labor General Law. Since 2001, exists in the Congress a draft of a Labor General Law that collects and reforms the labor legislation. However, this project has not yet been subject to parliamentary debate¹¹⁵.
132. Therefore, labor regulation continues to develop under the rules given in the context of structural adjustment policies and deregulation of markets. These policies were fueled by multilateral credit agencies, as well as by those, which in the context of the powers granted to the Executive Power in 2008, facilitated the outsourcing of services and the figure of the Public Procurement Service (CAS)¹¹⁶. Along with these rules, exist others¹¹⁷ that establish lower labor standards for the workers who work in the non-traditional export agroindustry, in the textile sector and in the domestic service, which have a significant female presence.
133. Working women in Peru represent 45.6% of the economically active population of the country (7 million 48,000 women). In 2001 were 44.0% of the EAP and 17 years ago were around 30%. In urban areas, represent 46.0% and 44.9% in rural areas. While men represent for 54.4% of the EAP in the country. In urban areas is 54% and in rural areas 56.1%. In Peru, the EAP is concentrated in the independent category (36.7%) and private employment (30.9%). According to sex, men are more concentrated in the private wage category (38.2%) than their female peers, most of whom work as independent (36.6%)¹¹⁸.
134. In paid job, women represent about 90% of domestic service, 65% of workers in export agroindustry. The special labor regimes, under which both sectors are regulated, cut and restrict their labor rights. For example, the general legislation on maternity protection at work does not fully protect them, they have salaries that do not reach the minimum wage and have no effective social security and pension rights. In other words, a differential and discriminatory legislative treatment in labor terms is established.

¹¹⁴ Report elaborated in 2011 by Aurora Vivar and Centro de la Mujer Peruana FLORA TRISTAN, and updated in 2014 for this session by Aurora Vivar.

¹¹⁵ Flores Mego, Karim, *Los derechos humanos de las mujeres en el Perú 2010*, DEMUS, Lima, 2011, p. 233.

¹¹⁶ The special regime of Public Procurement Service -CAS is an open system for a specific post. It involves a temporary appointment for a one fiscal year restricted period, renewable. It takes its labor nature in 2010. And, in 2012, by Law 29849, which enforced that the server under this scheme is considered within the scope of the Framework Law on Public Employment and the Law of the code of ethics of the public service; this should be adjusted to it and complete its regulation in terms of labor rights that correspond. Being a system of posts, there is no promotion or advancement. There are not remuneration scales, so that wages are negotiated for each individual contract.

¹¹⁷ Promotion of Agricultural Sector Act, Law N° 27360 of 2000; Promotion of Non-Traditional Export Act of 1978 (Legislative Decree N° 22342); and Domestic Workers Act, Law N° 27986 of 2003.

¹¹⁸ *La Mujer en el mercado laboral peruano. Informe anual 2008*. MTPE. Data of INEI-National Household Survey, on Living Conditions and Poverty, continue 2008.

135. The legal regime applicable to domestic workers has a special character that expels this sector of workers from the area of the general scheme of work. When comparing both schemes, it can be observed that the rights granted to domestic workers do not meet recognized standards for workers in general, setting for them discriminatory treatment both in payment and bonuses, the vacations regime among others. In turn, domestic workers face a number of barriers to demand the protection of their rights, some of which are derived from the legal regime to which they are subject, and other factors external to it.
136. Pending the ratification of Convention 189¹¹⁹, **Convention on domestic workers**, which entered into force in September 2013, ratified by 8 countries. Organizations of domestic workers and women in successive union campaigns are demanding the Peruvian State to sign it¹²⁰.
137. Furthermore, over 20 years ago, the country's economy was sustained –besides the traditional export- on new non-traditional export products such as agro-export, textiles, jewelry, among others¹²¹. An important aspect of the agro-export economy is the use of female labor, which reaches about 12.6% of the rural EAP. The occupational category that grew the most in relative terms at the level of rural female labor force was the salaried, with a remarkable 54.3%, while the EAP did 31%¹²².
138. However, the compensation they receive for the work they do is, in most cases, lower than that of men.
139. The remuneration in agriculture sector does not cover the basic basket of goods and, therefore does not guarantee conditions to ensure a decent life. Working conditions affect labor health and safety. From the business side, they continue denying human rights in the workplace, such as maternity protection, freedom of association, and the right to employment. This is particularly true in companies that are leaders in terms of investment volumes, of harvested area, and number of workers. In these, the right to freedom of association is violated harassing leaders, refusing paying utilities, female and male workers are subjected to long hours of work so they can achieve the minimum level of production required to earn the wage; also outsourcing services are frequently used to avoid paying social benefits, and pregnant women are laid off to.
140. Law N° 27360 established a series of tax breaks for companies that are involved in the cultivation or breeding and agroindustry, and introduced amendments to the labor status of agricultural workers, distinct from the one corresponding to the workers subject to general or common labor regime. Originally enacted to govern until December 2010, its period was extended in 2006 until late 2021. The organizations defending labor rights¹²³, are concerned with this law because transgresses acquired and formally recognized rights. In 2006, the Act was subject to a writ of unconstitutionality raised by the Bar Association of Ica, considering that sets lower standards of rights for workers in the agro-export sector, which is contrary to the principles of equality before the law and non-discrimination. However, the Constitutional Court declared inadmissible the writ of

¹¹⁹ This Convention was adopted historically at the ILO's 100th International Conference, on June 16, 2011.

¹²⁰ Countries that have ratified the Convention 189 are **Uruguay**, the first one in the world, as well as **Bolivia, Nicaragua and Paraguay**. The other countries that have ratified are Italy, Philippines, Mauritius, and South Africa.

¹²¹ Non-traditional exports are those products that have higher added value. These products (from agriculture, livestock, fisheries, textiles, wood and paper and their articles, chemicals, nonmetallic minerals, steelwork metalworkers and jewelry, metal-mechanics, leatherwork and skins, crafts and other tariff items of lesser economic significance) in total amounted US \$ 7,543 million at 2008, representing an increase of 663% compared to the volume registered in 1990; growth is explained mainly by agricultural and textile exports, which totaled US \$ 1,912 billion and \$ 2,018 million respectively. These two sectors make up about 50% of non-traditional exports. See: Aurora Vivar Association, *La agroindustria de exportación no tradicional en el Perú frente a la crisis mundial: rentabilidad empresarial, responsabilidad social empresarial y derechos laborales*, Lima, July 2009.

¹²² Eguren, Fernando, *Caso de Perú*. In: *Políticas de mercado de trabajo y pobreza rural en América Latina*, United Nations, ECLAC, FAO and ILO, 2010, Chapter VI, p. 311. See: <http://www.rlc.fao.org/es/pubs/pdf/politicas/>

¹²³ Non governmental organizations as Asociación Aurora Vivar, PLADES, CEPES, RED G, FEPROMU ICA, CODEH ICA, among others, and union organizations of the workers of Ica, La Libertad and Piura.

unconstitutionality, arguing that "special laws can be issued required by the nature of things, but not because of differences in people", and that "the agricultural special labor regime, regulated by Act N° 27360, has full force and effect". Accordingly, to the Constitutional Court the agricultural labor regime is not discriminatory and does not violate the principle of equality among people¹²⁴.

141. While the situation of women has changed in terms of entering the labor market, there are still very significant gender gaps: there is a high occupational segregation by gender and high wage gap, which have not decreased in the past 15 years. As for wage gaps, hourly earnings of men are between 28% and 40% higher than that received by women. Another aspect is that there is a high volatility of wages for women, as the wage gap between men and women tends to increase in periods of recession and decrease on periods of economic expansion. Such behavior is attributed to greater variability over time of wages of women.
142. The existence of special labor regimes, the non-enactment of a Labor General Act, put women in a situation of discrimination that prevents the exercise of their rights as women and as citizens.
143. **Unpaid work:** In 2010, the National Institute of Statistics and Informatics (INEI) applied the **First National Time Use Survey (ENUT 2010)** that has identified the number of hours that each family member (from 12 years onwards) spent to personal tasks, domestic unpaid tasks, voluntary tasks, and paid tasks. Survey results only confirm what is already known but was not quantified: women spend on unpaid household activities, on average a week, 39:28 hours and men 15:53¹²⁵. In general, women spend on housework more than twice the time men do (exactly 72% in urban areas and 70% in the rural, on average). It implies that throughout their lives, women occupy less than half of men opportunities to educate, prepare for the labor market, participate in community activities, interact in the public world, and relate to authority, among others. The numbers become more dramatic as we enter the rural world, where women spend 47:09 hours at unpaid domestic activities, 10 hours more than women in urban areas do¹²⁶. In addition, the educational level influences the number of hours women spend on household activities, which does not happen with men (women with no education spend an average of 45:02 hours a week to unpaid activities and women with superior education 28:34¹²⁷).
144. In order to address this issue, in June 2011, the Congress passed the Law N° 29700, which includes unpaid work in national accounts. INEI is the institution responsible for the implementation of the provisions of this Act (Article 1) and the Executive Power, "within one hundred twenty (120) days by Supreme Decree approved by the Ministry of Economy and Finance (MEF), delivers the regulations" for its application¹²⁸. The 120 days expired on October 3, 2011, more than two years ago.
145. It is required the regulation in order to include the value of unpaid work in national accounts. Based on the results of ENUT 2010, studies from civil society estimate, according to the method of calculation used, that the value of unpaid work goes between 15% and 30% of Gross Domestic Product, which is a significant contribution to the national economy¹²⁹. Based on the official valuation, the State should implement policies for recognition and compensation for the unpaid work done mostly by women.

RECOMMENDATIONS: DOMESTIC WORKERS AND AGRO EXPORT WORKERS

¹²⁴ Revised on: <http://www.buenastareas.com/ensayos/Regimen-Laboral-Agrario/1298134.html>.

¹²⁵ Impacto Económico y social del trabajo no remunerado de las mujeres. Movimiento Manuela Ramos, Lima, 2014, p. 8.

¹²⁶ Impacto Económico y social del trabajo no remunerado de las mujeres. Movimiento Manuela Ramos, Lima, 2014, p. 10.

¹²⁷ Impacto Económico y social del trabajo no remunerado de las mujeres. Movimiento Manuela Ramos, Lima, 2014, p. 12.

¹²⁸ Single Complementary Transitional Provision.

¹²⁹ Jackeline Velazco y Julia Velazco. Estimación del Valor Económico del Trabajo No Remunerado: Una Aplicación para Perú. Movimiento Manuela Ramos, Lima 2013.

- Ratify ILO's Convention 189; modify Domestic Workers Act, Act N° 27986, currently of special regime, by a rule that fits international standards on labor rights.
- Repeal the special labor regime (Article 7), which includes the Agricultural Promotion Law N° 27360, as it is a discriminating law.
- Regulate the Law 29700, which includes unpaid work in National Accounts.

Part III: Article 12

Obligations to take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to appropriate services of family planning and in connection with pregnancy, confinement and the post-natal period

I. LEGAL ABORTION¹³⁰

146. Therapeutic abortion is legal in Peru since 1924¹³¹; however, the State has not taken the necessary measures to ensure that women have access to it, creating an unfair and discriminatory situation for them.
147. One of the main obstacles to access therapeutic abortion is the absence of a technical standard that regulates nationwide the attention on health services. As a result, clinical diagnosis or diseases that warrant a therapeutic abortion, the procedure for women to access it, the procedure to be followed by services' operators for the management of cases, and the decision to attend or not an abortion, are left to the absolute discretion of health services and the attending physician.
148. With regard to this, the Peruvian State has showed ambiguous positions, always to the detriment of women. Since 2006, there are at least four proposals developed of Protocols or National Guidelines on Therapeutic Abortion and more than one minister has publicly committed to approve them. The current President, Mr. Ollanta Humala, offered in its Government's Plan 2011-2016 the approval of the protocol as an urgent measure. The current Minister of Health, Ms. Midori de Habich made a similar offer to Congress last year¹³². None of these commitments has been fulfilled.
149. In 2012, the Ministry of Health developed a draft of "Technical Guide for Comprehensive Care for the Voluntary Interruption of less than 22 weeks pregnancy by Therapeutic Indication with informed consent", which has become the subject of inquiry in other sectors. So far, the project has a positive opinion of the Ministry of Women and Vulnerable Populations, the Ministry of Justice and Human Rights (Report 03-2013-JUS/DGDH) and the Ombudsman's Office (Communication 097-2014-DP), but has not yet been approved.
150. This Technical Guide should be adopted; however, the State must correct several of its provisions, because they violate women's human rights. Among them is the silence in the Guide on the justification of abortion in cases of affection to "mental" health of the mother, the requirement of the presence and signature of a witness to proceed with the surgery, the requirement that a Committee of Ethical authorized or not the service, among others.
151. The Peruvian State has not complied with the provisions of the Human Rights Committee in the KL case¹³³ or with the provisions of the CEDAW Committee in the LC case¹³⁴. The Peruvian State

¹³⁰ Report elaborated in 2011 and updated in 2014 for this session by Estudio para la defensa de los derechos de la Mujer (DEMUS)

¹³¹ Penal Code, Article 119: "It is not punishable the abortion performed by a physician with the consent of the pregnant woman or her legal representative, if any, when it is the only way to save the life of the pregnant woman or to avoid serious and permanent damage to her health".

¹³² The Minister of Health, Midori de Habich, said before the Congress that they would approve the Protocol or National Guide to Therapeutic Abortion in the meeting of October 10, 2013. She confirmed this commitment in an interview on 20 March 2014.

¹³³ The Human Rights Committee, in the case KL v. Peru, stated that the Peruvian State "has an obligation to provide the author with an effective

has not issued public policies to prevent similar cases like these and has not provided any individual reparation. This constitutes a new violation of their human rights, this time linked to access to effective justice.

II. ILLEGAL ABORTION¹³⁵

152. Peruvian legislation states that women who voluntarily abort should be criminalized¹³⁶, unless the abortion is performed to save their lives or to prevent a serious and permanent damage to their health (therapeutic abortion). The Penal Code provides a reduced sentence for "eugenic abortion" and the so-called "sentimental abortion". In this last case, married women are treated in a discriminatory form with a higher penalty than unmarried women are.

153. Peruvian legislation requires physicians to report women who have had abortions clandestinely and attending health services in seeking medical attention¹³⁷. The criminalization of abortion has not had a verifiable impact on reducing the number of abortions performed in Peru and there is no official research on prevalence. Civil society estimates that in Peru at least 371,420 women clandestinely abort per year¹³⁸. The State recognizes that abortion is the second direct cause of maternal death in adolescents (29%), although its impact should be greater¹³⁹; also agrees that abortion is a major cause of maternal morbidity and mortality and is the main reason for hospitalization in the country¹⁴⁰.

154. The last State initiative to decriminalize abortion on certain grounds, occurred in 2009, when a Draft Bill was proposed to decriminalize abortion in case of rape or when it is likely that the fetus would present physical or mental defects at birth time¹⁴¹. This proposal was not discussed in the Plenary Session of the Congress and as the government changed, it was filed.

155. By contrast, the current Congress is debating a rule that threatens the validity of therapeutic abortion and the possibility of decriminalizing on other grounds. As part of the elaboration of the New Code of Children and Adolescents, the rule that the rights of the unborn always prevail over those of any person, including women has been proposed¹⁴².

156. In this context, various organizations¹⁴³ have initiated a process to submit to Congress a Citizens' Legislative Initiative to legalize abortion in case of rape, which already has the signatures of more than 0.3% of the electorate¹⁴⁴. Currently, is awaiting to be discussed by the Congress. It is

remedy, including compensation; as well as to take measures to prevent similar violations in the future".

¹³⁴ The CEDAW Committee recommended the State to provide remedies to LC, including compensation and rehabilitation measures. In addition, recommended revising its regulations and the establishment of a mechanism for effective access to therapeutic abortion; the adoption of guidelines or protocols to ensure the availability of health services; discuss the revision of the restricted interpretation of this type of abortion; and to adopt measures to ensure that reproductive rights are known and respected in all health centers; they also recommended the decriminalization of abortion in case of rape.

¹³⁵ Report elaborated in 2011 and updated in 2014 for this session by Estudio para la defensa de los derechos de la Mujer (DEMUS)

¹³⁶ It is punishable by deprivation of liberty not exceeding two years or community service of fifty-two to one hundred and four days.

¹³⁷ The General Health Act, Law N° 26842 of 1997, requires the treating doctor who finds "evidence of criminal abortion" to put the matter to the attention of the competent authority (Article 30).

¹³⁸ Ferrando, Delicia, *Aborto Clandestino en el Perú. Revisión*, Centro de la Mujer Peruana Flora Tristán, Lima, 2006, p. 29.

¹³⁹ Interview with Lucy Del Carpio, National Coordinator of the Strategy on Sexual and Reproductive Health of the Ministry of Health. In <http://www.larepublica.pe/07-06-2013/mortalidad-materna-en-adolescentes-aumenta-por-casos-de-suicidio-y-aborto> (visited on May 20, 2014)

¹⁴⁰ Ministerio de Salud. Oficina General de Estadística e Informática. Oficina de Estadística (2011). *Compendio estadístico de salud 2010*. Lima, Perú: Ministerio de Salud. Quoted by PROMSEX. *Tres Estudios sobre el Aborto en Lima*. Lima, 2013. P. 39

¹⁴¹ Regarding abortion in case of rape was explicitly stated that was not penalized "when the pregnancy is the result of rape outside marriage or non-consensual artificial insemination, provided that the facts were reported or investigated at least by the police".

¹⁴² The proposal states: "The unborn child is subject of rights for everything that favors it and enjoys special protection and privileged" and has been approved in the Preliminary Title, Article II of the Committee on Justice and Human Rights of the Congress, as well as in one of the Opinions of the Committee on Women and Family.

¹⁴³ The citizens' initiative has been driven by Catholics for a Free Choice Peru, CMP Flora Tristan, DEMUS, Manuela Ramos, PROMSEX and CLADEM Peru and supported by human rights organizations, grassroots women, LGBTI, among others.

¹⁴⁴ The citizens' initiative is called "Bill decriminalizing abortion in cases of pregnancy resulting from a sexual violation, artificial insemination or transfer of ova without consent" and ONPE been assigned the code IL00000142.

expected that the Congress acts in accordance with international human rights standards, decriminalizing abortion in case of rape. However, the emerging secular Peruvian State, the influence of the church hierarchy in the political authorities and the stiff resistance from congresspersons linked to it, are challenges that this debate must confront.

III. CONTRACEPTION¹⁴⁵

157. The Ombudsman has reported on more than one occasion¹⁴⁶, two recurring problems in family planning services: the shortage of contraceptives¹⁴⁷ and illegal charges¹⁴⁸. In the last ten years, a progressive increase in the use of traditional methods¹⁴⁹ is observed which has its main explanation in the recurring problems of shortage of modern methods in health services. In this same period, although public health services, along with social security services (ESSALUD) remain the main sources of supply of modern methods, the participation of public sector has been declining gradually¹⁵⁰, while the percentage of women who supply from pharmacies has tripled¹⁵¹.

158. A delay in the modernization of the public offering of contraceptives is also recorded. The range of methods offered in the State health services is limited, when compared with the offer available in pharmacies and private health services.

159. The free distribution of oral emergency contraception in the State health services is currently prohibited by the mandate of a Constitutional Court judgment dated October 16, 2009¹⁵². In this, it ordered the Ministry of Health to refrain from developing a policy of free distribution of oral emergency contraception in health care, and ordered the laboratories to include in the dosage, a warning that the product may inhibit implantation of the fertilized egg. However, in a previous constitutional process¹⁵³, the Court itself had recognized that the effects of oral emergency contraception were contraceptives not abortifacients. The sentence issued in 2009 does not explain the change of position and the alleged scientific uncertainty regarding the effects of oral emergency contraception in which the judgment was based, it was held outside the specialized opinion of organizations such as the Pan American Health Organization, Colegio Médico of Peru (doctors association) and the Peruvian Academy of Health.

160. The negative impact of this measure can be envisioned when considering the high rates of sexual violence in the country¹⁵⁴, where the failure of methods is not uncommon¹⁵⁵, that unwanted pregnancy leads to a clandestine interruption in high-risk conditions for life and health of women, and that the State health services are the main providers of contraception for poor women.

RECOMMENDATIONS: ABORTION AND CONTRACEPTION

- Approve a national protocol for therapeutic abortion care in health services.

¹⁴⁵ Report elaborated in 2011 by Centro de Promoción de los derechos sexuales y reproductivos – PROMSEX, and updated in 2014 by CLADEM Peru.

¹⁴⁶ See monitoring reports to family planning services: Ombudsman's Report N° 90 (2005), Ombudsman's Report N° 111 (2007) and Ombudsman's Report N° 001-2009-DP/ADDIM (2009).

¹⁴⁷ In particular: the injection and pills.

¹⁴⁸ The current regulation provides free services, including management methods.

¹⁴⁹ 11.4% in 2000 to 14.8% in 2013. See: Instituto Nacional de Estadística e Informática, *Encuesta Demográfica y de Salud Familiar 2000*, Lima, 2001, p. 63; and, Instituto Nacional de Estadística e Informática, *Encuesta Demográfica y de Salud Familiar 2013–ENDES 2013*, Lima, May 2014, p. 133.

¹⁵⁰ From 79.8% in 2000 to 60.6% in the 2013 period. See ENDES 2000 results (p. 69) and ENDES 2013 (p. 142).

¹⁵¹ From 8.1% in 2000 to 33.4% in 2013. See ENDES 2000 results (p. 69) and ENDES 2013 (p. 142).

¹⁵² Judgment issued in File N° 02005-2009-PA/TC, dated October 16, 2009.

¹⁵³ Judgment issued in File N° 7435-2006-PC/TC, dated November 13, 2006.

¹⁵⁴ Complaints of offenses against sexual freedom recorded by the National Police of Peru nationwide: 7,421 (2011). See: National Police of Peru, *Anuario estadístico policial año 2011*, Lima, 2011, box 1.1.

¹⁵⁵ For example, according to ENDES 2013, the male condom failure occurs with a frequency of 4.5%. On the other hand, five years before the survey, the reason for the discontinuation of male condom use was "getting pregnant while using" which had a frequency of 10.5%.

- Comply with the Final Decision of the Committee of Human Rights in the case KL. V Peru and the Final Decision of the CEDAW Committee in the case LC. V Peru; adopting measures in such a way that similar cases would not occur, as well as ensuring adequate compensation for each of them.
- Decriminalize abortion. It requires the suppression from the Penal Code, of all the alleged causes that criminalize cases of abortion consented by women, particularly the one that criminalizes Abortion due to Sexual Violation.
- Amend the rule requiring physicians to report to appropriate authorities any "criminal abortion signs" they find in the treatment of women who have had abortions clandestinely and attend health centers to save their life or protect their health.
- Guarantee and expand the availability of modern contraceptive methods in public health services nationally. Ensure the distribution of the YUZPE method of emergency contraception at the national level, especially in comprehensive services for women victims of sexual violence.

IV. FORCED STERILIZATIONS¹⁵⁶

161. The violation of women's reproductive rights, which occurred during the second term of former President Fujimori in the context of the implementation of the Program on Reproductive Health and Family Planning 1996-2000 (PNSRPF), was documented for the first time from a State institution in 1998, which was the Ombudsman Office. By then, hundreds of complaints had accumulated and feminist organizations had already documented and reported the existence of a massive, systematic and compulsory sterilization policy whose victims were mostly poor women, indigenous and from rural areas. The investigation by the Ombudsman concluded that the right of women to informed consent or free choice had not been guaranteed¹⁵⁷.

162. From 2002, the Special Prosecutor for Human Rights conducted an investigation on charges of "genocide and other" in the context of the implementation of PNSRPF. It identified 2074 sterilization victims against their will and the death of 18 women in connection with the implementation of this policy. The investigation was poorly conducted and finally was filed on December 11, 2009, releasing responsibility to the highest authorities of the government of former President Fujimori.

163. In 2011, due to the permanent claim of feminist organizations to the international human rights system and the national debate about the impunity of the cases, the Prosecutor's Office issued a resolution¹⁵⁸ ordering the reopening of the investigation of forced sterilizations of Mamérita Mestanza and 2073 others affected. However, in an uneven performance, on January 22, 2014, the Second Criminal Prosecutor Supraprovincial of Lima declared again inadmissible the criminal charges against Alberto Fujimori, his former health ministers and other authorities related to forced sterilizations. This resolution violates the due process rights of affected women as it was not ground in the analysis of each case, takes the argument of *res judicata* to protect the accused, does not analyze the cases as violations of human rights, and has a narrow view of crime against humanity.

164. Currently the case is under review in the Superior Prosecutor, however there is concern about the recent decisions taken by the Attorney General¹⁵⁹ who has determined that the case

¹⁵⁶ Report elaborated in 2011 and updated in 2014 for this session by Estudio para la defensa de los derechos de la Mujer (DEMUS)

¹⁵⁷ Ombudsman Office, *Ombudsman's Report N° 7. Anticoncepción quirúrgica voluntaria I. Casos investigados por la Defensoría del Pueblo*, Lima, 1998. Later on, issued two other reports: *Ombudsman's Report N° 27. La aplicación de la anticoncepción quirúrgica y los derechos reproductivos II. Casos investigados por la Defensoría del Pueblo*, Lima, 1999, and *Ombudsman's Report N° 69. La aplicación de la anticoncepción quirúrgica y los derechos reproductivos II. Casos investigados por la Defensoría del Pueblo*, Lima, 2002.

¹⁵⁸ Resolution N° 2073-2011-MP-FN. It states that "resolutions that declare inadmissible a criminal complaint is not strictly *res judicata* when the investigation was poorly done, also that the facts had been investigated as criminal offenses and not as human rights violations or crimes related to the same".

¹⁵⁹ The resolutions of the Attorney General: Resolution 1457-2014-MP-FN and Resolution 1509-2014-MP-FN

should be resolved by a provisional chief prosecutor and not by the competent one, breaking the internal rules of Public Prosecutor¹⁶⁰ and the constitutional principle of "competent tribunal". This irregularity has caused concern but also the public claim of women's organizations, which warn that this situation threatens the autonomy that this process should have.

165. Parallel to the impunity of the case, it should be noted that the State has not driven processes to ensure integral reparations to those affected by this crime against humanity. In 2006, rules were passed¹⁶¹ to provide health insurance to women sterilized against their will; however, they were not even disseminated¹⁶².

RECOMMENDATIONS FORCED STERILIZATIONS

- Investigate impartially, effectively and without delay all cases of forced sterilization, guaranteeing due process and the rights of victims. People responsible must be appropriately punished.
- Take the steps necessary to identify women who were victims of forced sterilization, guarantee their registration and provide full reparation. This will be done independently of the criminal proceedings and in a similar mode as in the Integral Reparations Plan that is implemented for victims of political violence that occurred between 1980 and 2000.

V. MATERNAL MORTALITY¹⁶³

166. According to the international commitments assumed by Peru, in 2015 maternal death shall not exceed 66 per 100 thousand live births¹⁶⁴. It was determined that in the period 2002-2011, 6691 maternal deaths occurred, with an average of 669 deaths per year, with a downward trend¹⁶⁵. For 2011, the maternal mortality ratio (MMR), the *ratio between the number of maternal deaths in a given year and the number of live births in the same year*, was estimated at 93 maternal deaths per 100,000 corroborated data by ENDES 2013¹⁶⁶.

167. According to the information of the Ministry of Health's General Directorate of Epidemiology, the majority of maternal deaths occur in the Mountain and Amazonian regions, as well as in the areas of high rural population and social exclusion. During the period 2000-2011, ten regions have increased their MMR in the past 6 years: Madre de Dios, Callao, Arequipa, La Libertad, Pasco, Lima, Lambayeque, Tumbes, Ucayali, and Cajamarca. The regions that maintain the highest MMR are: Loreto, Amazonas, Cajamarca, Puno, and Pasco¹⁶⁷.

168. During the 2007-2010 period, the following were reported as major causes of death: hemorrhage (42.6%), pregnancy-induced hypertension (22.7%), abortion (9.8%) and pregnancy-related infections (1.1%); most deaths occur during the third quarter¹⁶⁸. To these, direct causes of maternal death, were added indirect causes, which in the 2007-2011 period, accounted for 23.1% of maternal deaths¹⁶⁹. Indirect causes are closely related to the lack of access to therapeutic abortion in Peru, despite being legal, it is restricted.

¹⁶⁰ Note N° 023-2011-FSPNC-MP-FN and the Resolution of the Prosecutor's Office N° 829-2008-MP-FN provide that the prosecutor on duty, within 48 hours of the filing of the complaint, is who should review the research.

¹⁶¹ Supreme Decree 006-2006-SA and the Ministerial Resolution 591-2006-MINSA

¹⁶² DEMUS. *Tribunal de Conciencia por Justicia para las Mujeres Víctimas de Esterilización Forzada y de Violencia Sexual en Conflicto Armado Interno*. Notebook.

¹⁶³ Report elaborated in 2011 by Centro de Promoción de los derechos sexuales y reproductivos – PROMSEX, and updated in 2014 by CLADEM Peru.

¹⁶⁴ Instituto Nacional de Estadística e Informática, *Perú: Evolución de los Indicadores de los Objetivos de Desarrollo del Milenio al 2008*, Lima, 2009, pp. 183-186.

¹⁶⁵ General Directorate of Epidemiology. *La Mortalidad Materna en el Perú 2002 – 2011*. Ministerio de Salud, ob. cit; p.11

¹⁶⁶ Instituto Nacional de Estadística e Informática, *Perú: Indicadores de los Objetivos de Desarrollo del Milenio*, Lima, 2013, pp. 403-404.

¹⁶⁷ General Directorate of Epidemiology. *La Mortalidad Materna en el Perú 2002–2011*. Ministerio de Salud, ob. cit; p.11

¹⁶⁸ *Ibid*; p. 12.

¹⁶⁹ General Directorate of Epidemiology. *La Mortalidad Materna en el Perú 2002–2011*. Ministerio de Salud, ob. cit; p.11

169. The Ministry of Health, as part of its commitment to reduce maternal death, developed the National Strategic Plan for the Reduction of Maternal and Perinatal Mortality 2009-2015. It is, however, a framework plan that needs to be grounded through multi-sectorial plans and regional and local plans adequately funded. The creation of the Strategic Maternal and Neonatal Health Program in 2008 (Law N° 29142) also constitutes progress.

170. Despite the reduction of maternal mortality, there are still major inequalities due to variables such as place of residence and level of education¹⁷⁰. There are still problems that limit the achievement of the goals of reducing maternal mortality such as: i) unequal and limited access to family planning (services and supplies); ii) lack of access to quality and timely obstetric care for pregnancy and childbirth, which has a severe impact on the poorest population; iii) girls and teen pregnancy have more risk of complications; and iv) the criminalization of abortion that leads women to terminate pregnancy in unsafe conditions that can lead to bleeding and infection, direct causes of maternal death.

RECOMMENDATIONS MATERNAL MORTALITY

- Focus attention on the indirect causes of maternal mortality, which is relevant to ensure access to therapeutic abortion.
- Focus on policies of reduction of maternal mortality in areas that concentrate dispersed rural population and ensuring the availability and physical and economic access to care services for delivery and postpartum properly funded and equipped, covered by specialized and cross-culturally appropriate professional staff as well as by a reference and counter reference efficient system.

VI. BUDGET ALLOCATION: THE CASE OF MATERNAL AND NEONATAL HEALTH PROGRAM¹⁷¹

171. According to reports of concerted monitoring¹⁷² to the implementation of the Strategic Program of Maternal and Neonatal Health, the budget for the Program has been increasing its relative share of the public budget. In 2008, its initial budget¹⁷³ represented 0.48% of total public budget. In the 2009 period, 0.50%, and in 2010 period 0.55%. In the latter period, the initial allocation is higher than that of the previous year by more than 9 million soles.

172. Regarding the allocation for components of the program functional structure, the concerted monitoring report at the first quarter of 2010 states:

173. Commitments related to maternal health on "Pregnant women access to quality prenatal care and complications according to solving capacity" and "Pregnant women access to skilled birth and postpartum care, normal and complicated according to solving capacity" represents 55.4% of the budget allocated to the Program.

174. The 8.4% of the budget has been allocated to the component "Access to family planning methods and counseling services in sexual and reproductive health".

175. The component "Informed Population on sexual and reproductive health" is assigned only 1.8% of the budget, although it has great importance for its preventive nature and that promotes and facilitates access to family planning methods and counseling.

176. The budget allocated to the component "Pregnant women access to safe blood and blood components", represents barely 0.5% of the total budget of the program, which seems clearly insufficient taking into account that the bleeding is the leading cause of maternal death.

¹⁷⁰ Instituto Nacional de Estadística e Informática, *Perú: Indicadores de los Objetivos de Desarrollo del Milenio*, Lima, 2013, p. 403

¹⁷¹ Report elaborated in 2011 and updated in 2014 for this session by Centro de la Mujer Peruana FLORA TRISTAN.

¹⁷² The Roundtable for the Fight Against Poverty carries out since 2008 the concerted monitoring (state and civil society) in the implementation of the Maternal and Neonatal Strategic Program.

¹⁷³ Initial Budget.

177. The component "Pregnant women access to maternal and/or neonatal reference and counter-reference according to response capacity" sparsely represents 3% of the program budget, however it is vital to transport pregnant women with complications as well as the timely management of obstetric emergencies in specialized institutions.
178. Components "Health infrastructure" and "Blood bank", which were included in the program in 2009, do not have budget allocated for the period 2010. It is noteworthy that budget was not allocated for the construction of blood banks, blood transfusion centers and/or blood services, given their importance to the timely and safe care of obstetric emergencies.
179. Regarding the departmental distribution of resources allocated to Strategic Plan for Maternal and Neonatal Health¹⁷⁴, the concerted monitoring report concluded at the first quarter of 2010, that the program's budget allocation by region is unrelated to the maternal death. Moreover, in most cases the disparity between the resources and the maternal death is striking; the resource gap is significant in many of them.
180. According to the same report, 18 of 25 regions have an opening budget per capita lower than the national average. It notes that regions such as San Martín, Puno, Loreto, Amazonas, Junín and Ucayali, which have a ratio above the national average of maternal mortality, have a lower budget allocation per capita. Paradoxically, the regions of Lima, Arequipa and Tacna are among those who have a higher per capita budget allocation, although the maternal mortality rate is lower; it is important to note that in the case of Lima and Tacna the budget allocation is absolutely disproportionate when compared with the maternal death recorded.

RECOMMENDATIONS: BUDGET ALLOCATION: THE CASE OF MATERNAL AND NEONATAL HEALTH PROGRAM

- Increase the budget of the Strategic Maternal Neonatal Program, in order to reduce the rate of maternal mortality.
- Increase budgetary allocation for the "Informed population on sexual and reproductive health" component, considering that timely, accurate, and complete information is vital to prevent risks and threats to the health of women.

VII. ADOLESCENTS: SEXUAL AND REPRODUCTIVE HEALTH¹⁷⁵

181. In the last ten years, no significant changes were seen in adolescent fertility. The proportion of women between 15 and 19 years old who register pregnancies tended to stay in close to or above 13% levels. According to the Demographic and Family Health Survey 2013 (ENDES 2013), 13.9% of women aged 15 to 19 years old were once pregnant: 10.5% were already mothers and 3.5% were pregnant for the first time¹⁷⁶.
182. Although sexual initiation occurs at an early age, only 14% of adolescent women use birth control¹⁷⁷. Between those adolescents who have a partner and those who are sexually active, 34.1% and 12.7%, respectively does not use any method¹⁷⁸. There are also 18.4% of adolescents with a partner aged 15 to 19 years old with unmet planning needs¹⁷⁹. The proportion of teenage women who have had any sexually transmitted infection (STI) has increased slightly from the level recorded

¹⁷⁴ Taken from: Roundtable for the Fight Against Poverty, *ob. cit.*, p. 8.

¹⁷⁵ Report elaborated in 2011 by Centro de Promoción de los derechos sexuales y reproductivos – PROMSEX, and updated in 2014 by CLADEM Peru.

¹⁷⁶ Instituto Nacional de Estadística e Informática, *ob. cit.*, p. 121.

¹⁷⁷ *Ibid.*, p. 133.

¹⁷⁸ *Idem.*

¹⁷⁹ *Ibid.*, p. 186.

over a decade ago¹⁸⁰. According to the ENDES 2013, 0.5% of adolescents aged 15 to 19 years old reported having had an STI¹⁸¹.

183. Complications of pregnancy and abortion are among the five leading causes of death among women aged 15-19 years¹⁸².

184. Although the Law 30076 was published on August 19, 2013, where consensual sex of adolescents between 14 and under 18 was decriminalized, this standard is not yet known massively, so that the policy and services to meet the sexual and reproductive health of adolescents are still ineffective in some parts of the country.

185. Currently, the Bill N° 495/2011-CR called "New Code of children and adolescents", which recognizes the sexual and reproductive rights of adolescents over 14 years, is pending the discussion of the Plenary of the Congress. This project has the Majority Report of the Committee on Justice and Human Rights, amending the project to the extent that "*parents or guardians have the primary responsibility and are responsible for providing information and sexual and reproductive health education to their sons, daughters or adolescents their care*", leaving the State in a secondary role as assistant of the parents.

186. The Ministry of Health has sectorial rules that regulate a differentiated care for adolescents, both in terms of family planning and in relation to HIV/AIDS. However, this sectorial framework does not coordinate with the current wording of the General Health Law and with the way its scope has been interpreted with regard to adolescents. In practice, the provisions for the previous consent for the implementation of general medical treatments and contraceptive methods in particular have been understood as applicable to sexual and reproductive health services for adolescents, becoming, in another legal barrier to access to these services.

RECOMMENDATIONS: ADOLESCENTS: SEXUAL AND REPRODUCTIVE HEALTH

- Remove barriers to access of adolescents –male and female- to sexual and reproductive health, including limiting access to contraception.
- Guarantee and strengthen State responsibility en sexual education to adolescents older than 14 years.

Annex:

Alternative report made in 2011 by 16 civil society organizations and coordinated by the Center ALRC is attached; which was the main input for the preparation and updating of this document, aimed at the 58 Session of the CEDAW Committee.

¹⁸⁰ According to ENDES 2000, the proportion of adolescents who had had any sexually transmitted infection amounted to 0.3%. In: Instituto Nacional de Estadística e Informática, *ob. cit.*, p. 199.

¹⁸¹ Instituto Nacional de Estadística e Informática, *ob. cit.*, p. 332.

¹⁸² Instituto Nacional de Estadística e Informática, *Perú: Situación social de las madres adolescentes 2007*, 2nd edition, Lima, March 2010, p. 47.