



REFERENCE: DB/follow-up/Peru/66

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Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined seventh and eight periodic report of Peru at the Committee's fifty-eight session, held in July 2014. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/PER/CO/7-8). You may recall that in the concluding observations, the Committee requested Peru to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 18 and 36 of the concluding observations.

The Committee welcomes the follow-up report received with a 2-month delay in October 2016 (CEDAW/C/PER/CO/7-8/Add.1) under the CEDAW follow-up procedure. At its sixty-sixth session, held in March 2017 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 18** of the concluding observations, urging the State party “to adopt, as a matter of urgency, a comprehensive law to combat violence against women that prevents violence, protects victims, prosecutes and punishes perpetrators and includes reparations, sanctions and access to effective justice and to increase available mechanisms of protection and service provision to victims, taking an intercultural approach”: The State party indicated that the Law No 30364 “to prevent, sanction and eradicate violence against women and family members” was approved on 23 November 2015 and enacted through Supreme Decree No 009-2016 of 27 June 2016. The State party also informed on efforts made to protect victims through this law, which provides for State run support services for victims and re-education for the aggressors, as well as for local and regional training programs for men to prevent violence and temporary shelters. The State party also informed that this law provides for an intercultural approach, based on its chapter on “justice in rural areas”. In fact, it informed that the bylaw foresees intervention of special jurisdiction, including authorities of peasant and native communities, in the investigation and sanction of violence against women and family members. It added that in 2012, a local prevention, support and protection system was introduced through the Prevention, Support and Protection Strategy against Family and Sexual Violence in Rural Areas. Alternative information before the Committee indicates gaps in the new law on violence against women and family members, in terms of provisions on translation in court and on coordination between formal and community justice, which are hampering the implementation of the

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intercultural approach. Reports also point towards difficulties in the implementation of the law, such as insufficient allocation of human, technical and financial resources, procedural gaps and the lack of a Plan for the Justice System Adequacy of this Law. Finally, alternative sources underline the limited scope of attention services to victims through Women's Emergency Centers and Institutional Care Centers.

The Committee welcomes the adoption of the Law to prevent, sanction and eradicate violence against women and family members. Noting that the law also provides for protection and support of victims, it regrets reports showing limited attention granted to victims, thus putting them at risk of re-victimization. Taking note of the integration of a special chapter on rural environments in the new law, the Committee regrets that this law does not tackle discrimination based on "sexual orientation and gender identity" as the Committee recommended. It also regrets the lack of information on planned measures to prosecute and punish perpetrators. The Committee nevertheless considers that the State party took significant steps to implement the recommendation. It considers that the recommendation **has been implemented**.

In relation to the reiterated recommendation that the State party "design and implement a comprehensive strategy to combat discriminatory gender-based stereotypes, with a view to combating violence against women" and the new recommendation "to intensify awareness-raising programmes and education campaigns to support equality of women and men at all levels of society, modify stereotypical attitudes, eliminate discrimination against women on such grounds as poverty, indigenous origin or ethnicity, disability or sexual orientation or gender identity, thereby removing obstacles to the full exercise of the right to equality in accordance with the National Plan for Gender Equality": The State party reported on two awareness raising campaigns to support equality of women and men at all levels of society and eliminate stereotypical attitudes. The State party also reported on ongoing awareness raising campaigns on violence against women: A campaign on femicide, a special campaign on sexual harassment for students, a communication strategy addressed at adolescents, a training programme to prevent actions in communities with Women's Emergencies Centers, and radio programmes on family violence. The State party added a number of projects aiming to economically and mentally empower women to respond to violence, and teaching violence-free methods of upbringing. Alternative information before the Committee indicates a lack of coordination between sectors of the executive and various level of government in the implementation of awareness raising activities and trainings. Reports further point towards the limited geographic reach of these activities and the absence of assessments of their impact. Reports also underline that the new National Plan to Combat Sexual and Family Violence 2016 – 2021 establishes strategic actions for the prevention of and attention to violence against women in their (sexual) diversity and identifies forms of violence which are not recognized in the law.

The Committee takes note of the numerous awareness raising activities and trainings on stereotypical attitudes and violence against women. It notes that intersectional forms of discrimination are taken up in the new National Plan to Combat Gender Violence 2016 - 2021. The Committee however regrets the lack of a more comprehensive strategy to combat discriminatory and gender-based stereotypes. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

With regards to the recommendation that the State party "allocate sufficient financial resources for the implementation of the National Plan to Combat Violence against Women 2009-2015 and expedite the implementation of the Strategic Programme to Combat Domestic and Sexual Violence (Act No. 29465)": The State party reported on the planned budget for 2014 and 2015 to implement the National Plan to Combat Violence against Women (2009 – 2015), as well as on planned and implemented budget for the implementation of the National Plan to Combat Family- and Sexual Violence (2014 - 2016). It added that an intervention strategy on violence against women, family and sexual violence and related problems, aimed at students is currently being developed. Alternative information before the Committee indicates that the budget allocated

to the implementation of the National Plan to Combat Violence against Women 2009 – 2015 increased constantly and represented an average of 23% of the budget of the Ministry of Women and Vulnerable Populations. However, reports also show that the budget allocated to this Ministry represented 0.09% in 2014 – 2015 and 0.08% in 2016 of the budget of the executive, and that out of the six ministries needed to pass a budget for the National Plan to Combat Violence against Women, only two ministries gave their approval. Reports also point out that budgetary allocation was focused on treatment of cases, and specifically on domestic violence, following the design of the “Budget Program to Combat Domestic Violence”.

The Committee welcomes steps taken by the State party to allocate financial resources for the implementation of the National Plan to Combat Violence against Women 2009 – 2015, mainly through the Ministry of Women and Vulnerable Populations, and new budgetary allocations to the new National Plan to Combat Family- and Sexual Violence (2014 – 2016). The Committee however regrets the limited number of Ministries which have complied with the obligation to allocate budget to the implementation of the first National Plan. Noting the development of a strategy on violence against women, family and sexual violence and the design of the Budget Program to Combat Domestic Violence, the Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

In relation to the recommendation that the State party “adopt specific protocols to unify procedures for reporting cases of violence against women and centralize existing data collection systems to compile, disaggregate and periodically update data on such violence with a view to understanding the incidence and nature of the various forms of violence and to facilitate the measuring of progress”: The State party reported on the adoption of a number of protocols in specific manifestations of gender based violence: protocols on the support granted to victims of trafficking, on prevention and persecution of crime, protection, support and reintegration of victims of trafficking, on action in relation to femicide and domestic violence, and on support granted by Women’s Emergency Centers in cases of sexual violence in public spaces. The State party also reported that data on cases of violence against women, attention brought to victims, preventive actions, legal proceedings, as well as on consultations through hotlines and social media is collected in several registers. They are currently managed through the National Programme to Combat Family and Sexual Violence, integrated in a number of databases and online platforms and distributed through different channels. The State party also informed that the “Law to prevent, sanction and eradicate violence against women and family members” provides for a unified register of victims and aggressors. Alternative information before the Committee indicates that the core “Protocol for Joint Action in prevention, care, protection, early detection and continued intervention, punishment and rehabilitation against violence against women and household members”, provided by the new law on violence against women and family members, which is to ensure the comprehensive and integrated action of the different administrations and services involved, has not yet been approved and that existing protocols don’t cover all forms of gender based violence and are not yet adapted to the new law. Reports also indicate that there is no standardized and reliable data on complaints of sexual violence and draw attention to weak coordination among sectors and unreliability of existing records, which doesn’t allow evidence-based intervention.

The Committee welcomes the adoption of a number of protocols on prevention, persecution, support and reintegration procedures in specific cases of violence against women. It however regrets that the core protocol for the implementation of the new law has not yet been adopted, and that existing protocols have not yet been aligned with the new law. The Committee also notes that the State party makes use of several registers and platforms to collect systematize and publish data on violence against women. It welcomes plans to create a unified register of victims and aggressors, but regrets that those have not yet been implemented. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

With regards to the recommendation to “punish acts of sexual harassment”: The State party informed that the new law on violence against women regulates sexual violence in the workplace, and that a Law No 30314 to Prevent and Sanction Sexual Harassment in Public Spaces was published in 25 March 2015. Alternative information before the Committee indicates that the Criminal Code has not yet been amended and thus continues to require evidence of grave threat or violence before a sexual act to be classified as “indecent act”. Reports also show that the use of moralistic terms in the Criminal Code impedes effective protection of women from sexual harassment.

The Committee welcomes the adoption of the Law to Prevent and Sanction Sexual Harassment in Public Spaces. It however regrets insufficient information on plans to amend the Criminal Code to effectively prosecute acts of sexual harassment and punish perpetrators. The Committee considers that it **did not receive sufficient information** to assess whether the recommendation has been implemented.

The Committee recommends that, in relation to paragraph 18 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

1. Allocate sufficient human, technical and financial resources for the implementation and enforcement of the Law “to prevent, sanction and eradicate violence against women and family members” and strengthen efforts for protection of victims, reparation of damage, as well as for prosecution and punishment of perpetrators.
2. Assess the impact of previous awareness raising campaigns on gender-based stereotypes and violence and design a comprehensive strategy to combat discriminatory gender-based stereotypes, which includes specific awareness raising to address discrimination against women on such grounds of sexual orientation or gender identity.
3. Adopt the strategy on violence against women, family and sexual violence and related problems, and establish a mechanism to allocate sufficient financial resources from all implicated ministries for the implementation of the National Plan to Combat Family- and Sexual Violence (2016 – 2016).
4. Expedite approval of the core “Protocol for Joint Action in prevention, care, protection, early detection and continued intervention, punishment and rehabilitation against violence against women and household members”, adapt other protocols accordingly and expedite implementation of plans to create a unified register of victims and aggressors.

With regards to the recommendation made in **paragraph 36** of the concluding observations “to extend the grounds for legalization of abortion to cases of rape, incest and severe foetal impairment, taking into account its statement on sexual and reproductive health and rights, adopted at its fifty-seventh session, in February 2014, the Committee notes that unsafe abortion is a leading cause of maternal morbidity and mortality“: The State party reported that according to Article 119 of the Penal Code, abortion practiced by doctors, with consent of the pregnant woman or her legal representative, in order to save her life or prevent grave and permanent damage to her health is not punishable. It also reported on the preventive measure of the First Constitutional Court of Lima, taken on 20 June 2016, which allows the free of charge distribution of oral emergency contraception, as well as on a Citizen Legislative Initiative to “decriminalize abortion in cases of rape, artificial insemination or non-consensual transfer of fertilized eggs”, which has however been archived in November 2015. Alternative sources however indicate that Article 20 of the Criminal Code continues to criminalize abortion due to rape, incest or severe foetal impairment, and that abortion in cases of rape is referred to as “sentimental abortion”. Reports also inform on proposals before Congress for harsher sanctions for abortions by negligence and on the establishment of a service in charge of the development of unborn girls and boys by Ministerial Resolution.

The Committee welcomes the preventive measure of the First Constitutional Court of Lima, allowing free of charge distribution of oral emergency contraception. However regretting the lack of efforts of legislative measures on abortion and the absence of plans to extend the grounds for legalization of abortion to cases of rape, incest and severe foetal impairment, the Committee considers that the recommendation **has not been implemented**.

Regarding the recommendation “to ensure the availability of abortion services and provide women with access to high-quality post-abortion care, especially in cases of complications resulting from unsafe abortions”: The State party reported on the approval of national technical guidelines aiming at standardizing support services for cases of voluntary interruption of pregnancy which are not penalized, and indicated that those guidelines focus on the quality of services provided. The State party further informed that the General Health Law, in its Article 3, provides for medical attention for every person who is in a state putting his or her life and health at risk. Alternative information before the Committee indicates that 37% of health facilities surveyed in 2016 do not provide medicines to victims of sexual violence. Referring to data from the Ministry of Health, they point towards 447 women who were treated for failed attempts of abortion between 2014 and 2015, but draw attention to under-recording of treatment for non-therapeutic abortions. Alternative sources further indicate that clinical practice guidelines for emergency obstetric care by level of response capacity have been approved, regulating the care of unavoidable, incomplete, complete, retained and septic abortions. They add that Health Directives for the Evaluation of Obstetric and Neonatal Functions in Health Facilities regulate care for incomplete abortions, complicated incomplete abortions and the ones requiring intensive care. Although 92.3% of health facilities with obstetric and neonatal functions have equipment for uterine curettage and 46.7% for uterine manual aspiration, reports indicate that most health facilities do not have sufficient response capacity to address incomplete and complicated abortions or those requiring intensive care.

The Committee welcomes efforts made to standardize support services for therapeutic abortions cases of voluntary interruption of pregnancy. It however regrets the lack of efforts made to strengthen the availability of abortion services. It also regrets the absence of information on measures taken to provide high-quality post-abortion care in cases of complications resulting from unsafe abortions. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

With regards to the recommendation that the State party “remove punitive measures for women who undergo abortion, including by taking the measures necessary to harmonize the General Health Act and the Code of Criminal Procedure with the constitutional right to privacy”: The Committee did **not receive information** to assess whether the recommendation has been implemented.

In relation to the recommendation “to disseminate information on the technical guidelines on therapeutic abortion among all health staff and ensure a broad interpretation of the right to physical, mental and social health in their implementation”: The State party reported on the development of an implementation plan for the technical guidelines on therapeutic abortion in 2015, the reproduction of these guidelines and their distribution to all regional coordinators of the National Reproductive and Sexual Health Strategy, to coordinators of regional hospital networks and to hospitals themselves. It also reported on workshops on the application of the technical guidelines in 2015 and 2016, with the participation of obstetrician-gynaecologists, gynaecologists and legal advisors from different health establishments, officials of the Ministry of Health and the air force, as well as the Public Prosecutor. It added that the impact of the technical guidelines was assessed through workshops with health professionals, hospital lawyers and civil society, as well as through teleconferences with health professionals and regional reproductive and sexual health coordinators. The State party also reported that in 2016, orientation and counselling guidelines on therapeutic abortions have been approved and workshops on their application have been organized to the benefit of obstetrician-gynaecologists, gynaecologists and legal advisors of assistant

networks of Lima and Callao. Alternative information before the Committee indicated that the plan to disseminate the technical guidelines on therapeutic abortion is not public, that its implementation shows little progress, that distribution to regions was ensured via e-mail only and that all workshops but two took place in the capital. Reports draw attention to the lack of knowledge about legal aspects of abortion in health professionals, which is an impediment to the broad interpretation of the technical guidelines, although they include an open clause giving the way to consideration of mental and social health status of the pregnant women as legal grounds for therapeutic abortion. Reports also underline the persistent necessity to standardize procedures for therapeutic abortion in all health facilities. They moreover draw attention to the lack of awareness of women who require therapeutic abortion on their rights.

The Committee welcomes the development of a plan to implement the technical guidelines on therapeutic abortion, the efforts undertaken to disseminate them and to assess their impact. Noting that the guidelines include physical and mental health of the pregnant woman as legal grounds for therapeutic abortion, it regrets the lack of effort aimed at ensuring consistent broad interpretation of these guidelines. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to paragraph 36 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

1. Extend the grounds for legalization of abortion to cases of rape, incest and severe foetal impairment.
2. Enhance availability of abortion services and take measures to ensure access to high-quality post-abortion care, especially in cases of complications resulting from unsafe abortions.
3. Remove punitive measures for women who undergo abortion, including by taking measures necessary to harmonize the General Health Act and the Code of Criminal Procedure with the constitutional right to privacy.
4. Reinforce measures to disseminate information on the technical guidelines on therapeutic abortion among all health staff, provide specific training to ensure a broad interpretation of the right to physical, mental and social health by professionals and raise awareness in women on their rights in cases of therapeutic abortion.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



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