



Written submission on the 65th Session for the Committee Against Torture

(12th november – 7th december 2018)

(2301 words)

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

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

Our aim with this written submission is to assist the Committee during its 65th Session (12th November – 7th December 2018) for its review of 7th Peru’s report, comment and information by providing independent information on cases where the State under review fails to comply with the obligations of the Convention against torture and other cruel inhuman or degrading treatment or punishment.

We hope this information would help the work of the Committee and facilitate constructive dialogue with the State party to eradicate torture. Unless the cases have been under public scrutiny, names of the victims and familiars had been de-identified and anonymized without compromising the reliability and objectivity of the information submitted to the CAT Committee.

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A. Harmful traditional practices against indigenous women and men: witchcraft-associated charges (articles 2, 12 to 16 of the Convention)

The Government of Peru over the last four years has adopted major steps regarding the situation of indigenous women such as the creation of the Committee for the Promotion of the Rights of Indigenous Women, the development of social, economic and productive programs for indigenous women and the measures to respond to domestic violence. President Vizcarra from time to time addresses the elimination of gender violence as a top priority. Despite that, indigenous women still experience intersecting forms of discrimination and gender specific acts of violence. ODRI wants to raise light on the extrajudicial killing of indigenous women accused of witchcraft in some rural and native communities.

Beliefs and practices related to witchcraft vary considerably between the 55 indigenous peoples in Peru. According to the Database on Indigenous Peoples by the Ministry of Culture, values related to sorcery and witchcraft differ tremendously. Asheninka, one of the largest indigenous groups, assign gender roles of agriculture to women, and fear that if women immerse into the rainforest they could become witches¹. Harakbut communities trust that witches (the huachipari) look for animals and plants to produce health diseases, while traditional healers (the curanderos) search the same in

nature to restore health². Wampis value positively sorcery and traditional medicine practiced by women within their communities.

In some cases, indigenous women accused of being witches had been executed after they are subjected to physical and verbal violence and rejected by their community. There is not a total number of the extent of these harmful practices and many of these killings occur in rural areas without notice from the State and media. Moreover, in some cases some members of the indigenous peoples are considered public officials because they are part of the judiciary or they represent the Ministry of Interior, so that means that the acts are attributable to the State. Nonetheless, using the software NVIVO, ODRI has gathered information regarding four cases of indigenous women that show only the tip of the iceberg of homicides and punishments.

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

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

These four women have suffered acts of torture or mistreatment before they were attacked and died in the hands of non-state actors, acting with the acquiescence, consent and incitation of the State, triggering State international responsibility. These deaths were foreseeable and preventable, and after the occurrence Peruvian state should adopt a range of additional legal, investigatory, sentencing and protection measures, and develop guarantees of non-repetition. Victims were assaulted with extreme seriousness and attackers had motives related to social and cultural-constructed harmful stereotypes. The Ministry of Culture develop some activities to address this form of violence without a clear strategy of engagement and continuity. There are also cases of homicides of men traditional healers that are also in impunity as has been recognized by the Viceministry of Interculturality.

Additionally, there were some cases documented related to the detention of trans sex workers by private individuals, where they were forced to do forced labour and were stripped as a punishment, such as the case of Techi, a case that remains in impunity. Peasant communities "Rondas campesinas" and neighborhood committees in Peru exercise in some regions police activities and affect those women, men and LGTBI persons that challenge gender and social roles.

ODRI respectfully solicits the Committee Against Torture, to recommend the Peruvian State to intensify its efforts to combat these harmful practices and eradicate the intersecting forms of gender violence, by addressing the beliefs and motivation behind witchcraft accusations and develop policies and practices about the prevention and investigation of witchcraft killings, stepping up campaigns to alert the public of the effects of practices detrimental to women. The State should also guarantee the punishment of the perpetrators and remedies for the victims or their families, taking into consideration the principle of cultural dialogue and mutual understanding. The State of Peru must adopt more educational measures and undertake data collection and monitoring of gender-based violence, including witchcraft- related harmful practices, with the participation of stakeholders including indigenous organizations and female leaders.

B. Retaliations against human rights defenders (articles 2, 12, 16 of the Convention Against Torture)

ODRI is seriously concerned at the numerous reports of excessive use of force and ill-treatment against indigenous human rights defenders in connection with their advocacy activities related to the extraction of natural resources in their land and territories. Indigenous human rights defenders have been submitted to verbal harassment, physical abuse and arbitrary arrests. Most of the attacks are not duly investigated, or when investigations have been initiated they have been suspended, and most complaints against law enforcement officers and private parties have been dismissed. Human rights defenders are often silenced or intimidated by criminal charges against them that are a price of the defence of their livelihoods. One of the cases is related to the killings of four asheninka leaders in Saweto in 2014 opposing to a forest project in their native community. Until this day, no one has been convicted by these killings.

There are also specific forms of violence against indigenous women rights defenders that are attacked by police and military forces, private security companies, media and other member of the communities. From 2003 to 2017, ten women defenders died during social conflicts, mostly in relationship with mining projects. For instance, indigenous women opposed to a mining project were raped inside Rio Blanco Copper Company. This last April around 40 police guards providing security to Glencore Mining Company harassed and attack Rocio Coaquera, Maria Coaquira and Eufrosina Umasi. In some cases, the attackers justify their violence saying that these women are booty and use racial insults related to their indigenous identity.

In fact, the Inter-American Commission on Human Rights has noted and the Special Rapporteur on the Rights of Human Rights Defenders, Michael Forst, has raised cases of harassment against environmental defenders regarding César Estrada Chuquilin, Virginia Pinares Ochoa, Jennifer Moore and John Dougherty, without a formal response from the government until this day.

The government of Peru promised to develop a risk map for human rights defenders by 2019 and a protection mechanism by 2021 as part of the National Human Rights for 2018-2021. However, some challenges remain ahead. The proposed protection mechanism that will provide comprehensive assistance and protection for human rights defenders requires the active participation of three ministers (the Ministry of Justice and Human Rights as an articulator, the Ministry of Interior Security that controls the Police forces, and the Ministry of Mines and Energy that gives authorizations for large-scale mining project). Furthermore, there are questions unresolved regarding the responsibilities of the Ministry of Mines and Energy, and how they would address the human rights risks and ensure accountability of violations committed by private companies. A protocol for the protection of human rights defenders was arranged by stakeholders, nevertheless, due to the opposition of the Ministry of Mines and business associations, the National Human Rights refrained this compromise.

For all the previous reasons stated before, ODRI respectfully suggest the Committee Against Torture, to recommend the government of Peru to engage meaningfully in the protection of human rights defenders and ensure that human rights defenders can conduct their work and activities freely. The State should develop specific safeguards for indigenous communities against mining project, with a gender lens, that can provide comprehensive protection of their livelihoods in the specific mechanism for human rights defenders in charge of the Ministry of Mines and Energy and the Ministry of Interior. The State should also ensure effective, impartial investigations are undertaken into the allegations of harassment and attacks against human rights defenders

C. Experiences of lesbian, gay, bisexual, transgender and intersex persons in detention (articles 2, 11 and 16 of the Convention Against Torture)

ODRI is concerned that lesbian, gay, bisexual, transgender and intersex persons are subject to abuse and stigmatization by public officials and fellow inmates. The living conditions are harsher for persons that live under constant fear of violence and humiliation. Moreover, medical services provided by penitentiary institutions in Peru refuse to qualify as medical urgencies the attention of chronic silicone complications such as relapsing cellulitis or necrosis. In the case of Y., a trans woman was humiliated and subjected to degrading treatment since the penitentiary did not want to transport to other prison next to a hospital where she could access to medicines. In addition, due to the fact that National HIV/AIDS and tuberculosis treatment strategies are not available at prisons, the incidence of HIV/AIDS and tuberculosis remains higher than the national predisposition.

At the same time, trans women remain invisible in the statistics provided by the Peruvian State that address the deprivation of liberty of women. Just recently, the National Preventive Mechanism has identified that Prison administrators denied that there were LGBTI prisoners between the total population. Nevertheless, after some surveys some prisoners gave details regarding their sexual orientation and gender identity and expression.

ODRI respectfully suggest the Committee to recommend the State of Peru to (a) Take measures to protect lesbian, gay, bisexual, transgender and intersex persons from violence by public officials and fellow inmates, and in particular protect gay and transgender women from violence inflicted by other detainees; (b) End the discrimination and violence against lesbian, gay, bisexual, transgender and intersex prisoners in the access to health services, including appropriate measures to effectively prevent and control the further spread of tuberculosis and HIV/AIDS, such as the screening for these diseases on admission to places of detention and the distribution of condoms and lube, and specialized medical care to detainees living with tuberculosis and HIV/AIDS; and (c) investigate promptly, impartially and thoroughly all such allegations, and bring the perpetrators to justice.

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About ODRI

ODRI “Intersectional rights” - Office for the Defense of Rights and Intersectionality is a Lima-based NGO established in 2017. It is a apolitical and non-confessional. Among its principal goals is the introduction of intersectional approaches and the mainstreaming of the Sustainable Development Goals. To fulfil this goal ODRI currently submits reports assessing the respect of human rights in certain countries to United Nations Treaty Bodies and Special Procedures, and other fora. Moreover, ODRI is involved in the monitoring of criminal complaints in Latin America against individuals suspected of having committed crimes under international law. To see other contributions presented to the treaty bodies, you can visit our last submissions:

CEDAW Chile Written submission on Chile Pre-Sessional Working Group 71st session (12 – 16 March 2018) https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CHL/INT_CEDAW_NGO

Informe para la adopción de la Lista de cuestiones relacionadas con el informe presentado por Perú sobre la implementación de la Convención Internacional para la protección de todas las personas contra las desapariciones forzadas en su 15º período de sesiones (05 nov 2018 - 16 nov 2018)

https://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/PER/INT_CED_ICO_PER_32073_S.pdf