



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION**

Seventeenth periodic reports of States parties due in 2006*

PERU**

[30 January 2009]

* The fourteenth, fifteenth, sixteenth and seventeenth periodic reports of Peru, due on 29 October 1998, 2000, 2002 and 2004, respectively, have been consolidated into this single document. For the twelfth and thirteenth periodic reports and the summary records of the meetings at which the Committee considered the reports, see documents CERD/C/298/Add.5, CERD/C/SR.1317 and CERD/C/SR.1318.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

Introduction

As a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, Peru hereby submits its fourteenth, fifteenth, sixteenth and seventeenth periodic reports, covering measures taken in 1998-2008, to the Committee on the Elimination of Racial Discrimination in fulfilment of its commitments under article 9 of the Convention.

This report has been prepared in accordance with the guidelines established by the Committee for the submission of reports by States parties.

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I. LEGAL FRAMEWORK AND GENERAL POLICIES TO ELIMINATE RACIAL DISCRIMINATION

A. General policies to eliminate racial discrimination

1. Peru is a party to the main international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination.
2. Although efforts to combat discrimination are not centralized in any one public institution, Peru has taken various steps since 29 September 1971, when it ratified the Convention, to eliminate all discriminatory practices and to promote both de jure and de facto equality for all persons within its jurisdiction.
3. Over the past few years, the authorities and major political forces in the country have drawn up a core document, entitled the National Accord on State Policies,¹ with a view to the consolidation of democracy and affirmation of the national identity. State Policy No. 11 acknowledges the fact that various instances of social inequity and discrimination continue to exist in the country and underscores the commitment of the State and the various political forces to place genuine priority on promoting equality of opportunity.
4. During the past decade, a number of important standards, plans and policies have been developed and institutional changes made in the area of human rights, many of which are founded upon the international obligations assumed by Peru within the framework of the universal system for the promotion and protection of human rights. As a result, since late 2000, respect for human rights and fundamental freedoms has been greater than ever. Nonetheless, the country still has a long way to go in order to ensure that each of its citizens can fully exercise all such rights.
5. This institution-building stage has gone hand in hand with a strong upswing in economic growth and development that has been driven by a number of domestic and external factors. The most disadvantaged sectors of the country do not always reap the benefits of this prosperity, however. This is clearly one of the major challenges for democratic governance in Peru: to demonstrate through action that the democratic system has a positive impact on every citizen's life and that it not only brings with it greater respect for fundamental freedoms (an impressive achievement in and of itself) but that it also is increasingly effective in upholding all human rights.

¹ The National Accord, which dates from 2002, sets forth 31 State policies whose broad objectives are to contribute to the democratic transition, to help strengthen democracy and the rule of law, to promote efforts to combat poverty, to make the country more competitive, to achieve the stability required for growth with equity, to create and mainstream a culture of democratic dialogue and to generate economic growth.

6. To this end, the Peruvian Government is implementing programmes at the national level, under the supervision of various units within the executive branch, to narrow existing disparities. A total of 3.2 billion nuevos soles in 2007 and 4.5 billion nuevos soles in 2008² in funding for these programmes has been provided. Information will be furnished throughout this report on the impact which these programmes have had in increasing the opportunities available to all and in reducing all forms of discrimination.

B. Legal framework for the elimination of racial discrimination

7. Peru's legal structure guarantees full equality of rights for all its inhabitants, regardless of their religion, sex, race, language, opinions, ethnic origin or social group.

1. Constitution

8. Article 2, paragraph 2, of the Constitution of Peru establishes the right to non-discrimination in the terms set forth in the Convention:

“Every person has the right: ... to equality before the law. No person shall be discriminated against on the basis of origin, race, sex, language, religion, opinion, economic situation or any other reason.”

9. Article 2, paragraph 19, on the fundamental rights of individuals, guarantees the right to ethnic and cultural identity and expresses the State's acknowledgement and commitment to the protection of the ethnic and cultural diversity of the nation.

10. The Constitution also provides guarantees for the effective protection of human rights by means of procedures that may be initiated by any citizen. To protect the right to non-discrimination, article 200, paragraph 2, provides for *amparo* proceedings as a guarantee against any act or omission by any authority, official or person which violates or threatens fundamental human rights.³

11. The Constitutional Court⁴ has succeeded in establishing important judicial precedents⁵ concerning the protection and respect of human rights in Peru. In its judgement in case No. 0261-2003-AA/TC,⁶ the Court develops the concepts of equality, equality before the law and

² Statements made by the chair of the executive board of the “Juntos” programme, Mr. Iván Hidalgo, to the magazine *Caretas* 2019, 19 March 2008.

³ With the exception of the right to individual freedom and related rights, which are protected by the writ of habeas corpus, and the right to information and the right to privacy, which are protected by the writ of habeas data.

⁴ The Court discharges its duty of verifying the constitutionality of the nation's laws through constitutional reviews and, in terms of the direct protection of human rights, through the extraordinary remedies of habeas corpus, *amparo*, habeas data and mandamus, which constitute constitutional guarantees.

differentiation, noting that “the notion of equality should be viewed as existing on two converging planes. On the first, it constitutes a guiding principle for the organization and action of a democratic State operating under the rule of law. On the second, it constitutes a fundamental right of the individual”.

12. In numerous executory judgements,⁷ the Constitutional Court has defined its judicial approach to the right to equality and has established that it is a principle and a right that places people, under identical conditions, on an equivalent footing. This entails conformity or identity based on a matching nature, circumstance, quality, quantity or form such that no exceptions or privileges are granted that would deny one person access to the rights conferred upon another within the same time frame or for the same reason.

13. The Court has stated, however, that the principle of equality is not at odds with the legal recognition of differences in treatment provided that such differences have an objective, reasonable, rational basis and are proportional in nature. As noted earlier, the democratic State should take steps to rectify inequalities affecting disadvantaged groups and, to that end, is armed with public policies to protect such groups from continued discrimination.

International treaties

14. In accordance with articles 55 and 56 of the Constitution, human rights treaties are automatically incorporated into domestic law once they are ratified by the President following their passage by the legislature. Under the terms of the fourth final and transitory provision of the

⁵ The Constitutional Court’s rulings on the right to equality are binding upon judges at the national level. This is established in article VII of title 1 of the Constitutional Code of Procedure (Act No. 28237), which states that the judgements of the Constitutional Court that take on the authority of *res judicata* constitute binding precedents when this is so stated in the judgement, which should also stipulate the domain in which they are to apply.

⁶ Constitutional Court judgement in the *amparo* application brought by the Peruvian Chamber of Commerce against the Ministry of Labour and Social Promotion (case No. 261-2003-AA/TC).

⁷ Constitutional Court judgement in the *amparo* application brought by the Peruvian Chamber of Commerce against the Ministry of Labour and Social Promotion (case No. 261-2003-AA/TC); the judgement in the application filed by over 5,000 citizens for the constitutional review of Decree-Laws Nos. 25475, 25659, 25708 and 25880, together with the corresponding supplementary and related regulations (case No. 010-2002-AI/TC); and the judgement in the applications filed by the Association of Notaries of the Lima Notarial District for the constitutional review of the second and fourth paragraphs of article 7 and article 13 of Act No. 27755 and by the Associations of Notaries of the Callao and Arequipa Notarial Districts for the constitutional review of the second paragraph of article 7 of Act No. 27755 (joined cases Nos. 0001/0003-2003-AI/TC).

Constitution, such treaties are ranked on a par with the Constitution.⁸ The International Convention on the Elimination of All Forms of Racial Discrimination is therefore a component of national legislation with constitutional rank.

2. Legal framework

15. In compliance with the provisions set forth in the Constitution, Peru has introduced a number of legislative measures to protect the rights of all persons within its jurisdiction. These measures will help to improve and update the legal framework for eliminating all forms of discrimination, and specifically those based on racial or ethnic origin, thereby promoting the de jure and de facto equality of all persons in Peru in accordance with its international commitments.

Legal provisions governing political participation

16. The Elections Organization Act (No. 26859)⁹ provides for the exercise of equal voting rights by all citizens in presidential and parliamentary elections, in the election of judges pursuant to the Constitution, in referendums and in recall elections. Pursuant to the Act, a minimum quota for participation by members of native communities and indigenous peoples has been established.

17. Accordingly, the Municipal Elections Act (No. 26864)¹⁰ and the Regional Elections Act (No. 27683)¹¹ set a minimum quota of 15 per cent for representatives of native communities and indigenous peoples from each province or region on party lists of candidates for the posts of mayors and municipal councillors and for seats on the regional councils, respectively.

18. The Regional Government Organization Act (No. 27867)¹² and the Municipalities Organization Act (No. 27972)¹³ promote participation in Government by all citizens without distinction of any sort. They also encourage the participation of members of native communities in regional and local coordination councils and other bodies such as the boards of neighbourhood

⁸ Rules concerning rights and freedoms recognized in the Constitution are construed in accordance with the Universal Declaration of Human Rights and with international treaties and agreements on those rights that have been ratified by Peru in line with the other rights upheld by the Constitution.

⁹ Of 20 November 1998.

¹⁰ This law governs local government elections only. The above-mentioned quotas are set forth in article 10.

¹¹ This law governs regional government elections only. The above-mentioned quotas are set forth in article 12.

¹² Of 16 November 2002.

¹³ Of 26 May 2003.

associations. The National Elections Tribunal has played an advisory role in connection with such elections with a view to promoting an inclusive, participatory form of democracy free of any sort of racial discrimination.

Legal provisions governing access to educational institutions

19. Article 8 of the General Education Act (No. 28044)¹⁴ provides that people are the “centre of and major stakeholder in the educational process” and is based, inter alia, on the principle of inclusiveness, which “embraces persons with disabilities and excluded, marginalized and vulnerable social groups, especially in rural areas, regardless of ethnic identity, religion, sex or other cause of discrimination, thereby contributing to the elimination of poverty, exclusion and inequalities”. Article 18 instructs the State to develop and implement education projects having objectives, strategies, measures and resources directed towards reversing situations of inequality and/or inequity based on origin, ethnic group, gender, language, religion, opinion, economic status, age or any other such factor.

20. Article 14 of the Code on Children and Adolescents, adopted by Act No. 27337,¹⁵ requires education authorities to take the necessary steps to prevent any form of discrimination.

Legal provisions governing employment and labour relations

21. Act No. 26772,¹⁶ on the prevention of discrimination in employment and access to education and training, provides that vacancy announcements may not contain any requirement that would constitute discrimination or that would negate or affect equality of opportunity or treatment. Under the Act, any requirements for employment or for enrolment in technical and professional training courses that are based on race, sex, religion, opinion, social origin, economic status, marital status, age or any other such factor are considered as discriminatory. The Ministry of Labour and Employment is authorized to investigate such cases, identify the responsible parties and impose the corresponding administrative sanctions.

22. While it may seem that this limits employers’ decision-making power, by requiring them to base their decisions on, essentially, criteria related to job qualifications, the law’s objective is not to do away with an employer’s freedom of contract but simply to reconcile it with the right to equality by seeking to ensure that staff selection is reasonable and is justified by the merits and aptitudes of job-seekers.

¹⁴ Of 28 July 2003.

¹⁵ Of 7 August 2000.

¹⁶ Act No. 26772 was published in the Official Gazette (*Diario Oficial El Peruano*) on 17 April 1997 and was amended by the Anti-Discrimination Act (No. 27270). Article 2 of Act No. 27270, published on 29 May 2000, amends articles 1-3 of Act No. 26772.

23. The implementing regulations¹⁷ for Act No. 26772 state that the prohibition of discrimination in employment and access to education and training¹⁸ applies to employers, education and training providers, and employment agencies and other employment intermediaries. The regulations also make it obligatory for media that advertise vacancies and educational or training opportunities to furnish the necessary information to the administrative labour authority and to facilitate any investigation undertaken by that authority. They also cite certain situations that do not constitute discriminatory practices because they have an objective and reasonable basis. People may therefore report instances of discrimination to the administrative labour authority and submit the relevant evidence, which, in the case of discriminatory materials distributed through the media, will be a copy of the advertisement alleged to contain a discriminatory personnel selection criterion.

24. Article 30 (f) of the consolidated amended text of Legislative Decree No. 728, on labour competitiveness and productivity,¹⁹ classifies acts of discrimination based on sex, race, religion, opinion or language as hostile acts that can be equated with dismissal.

25. The regulations implementing the General Act on the Labour Inspectorate²⁰ authorize the Labour Inspection Directorate of the Regional Labour and Employment Directorate for Lima and Callao to investigate discrimination in job advertisements and in labour relations, and empower the directorates for dispute prevention and settlement of the labour and employment directorates, or the equivalent body, as appropriate, to do so in the other departments of Peru.

26. Article 31.3 of these regulations classifies the following acts as very serious violations of employment and recruitment rules: the advertisement and publication, through any medium, of vacancy announcements that contain discriminatory elements based on origin, race, colour, sex, age, language, religion, opinion, nationality, social origin, economic status, the exercise of freedom of association, disability, infection with HIV or any other such factor. Article 48 contains provisions concerning the severity and application of the corresponding penalties.

¹⁷ Adopted by Supreme Decree No. 002-98-TR and published in the Official Gazette on 1 February 1998.

¹⁸ Supreme Decree No. 002-98-TR defines education or technical or professional training providers as institutions within the formal educational system and the vocational training programmes listed under title I of the consolidated amended text of the law on vocational training and labour promotion adopted by Supreme Decree No. 002-97-TR.

¹⁹ Adopted by Supreme Decree No. 003-97-TR of 27 March 1997.

²⁰ Adopted by Supreme Decree No. 019-2006-TR and published in the Official Gazette on 29 October 2006.

Legal provisions on consumer relations

27. Although a consumer protection law does exist (Legislative Decree No. 716),²¹ the consolidated amended text adopted in Supreme Decree No. 039-2000-ITINCI²² contains the most comprehensive provisions on consumer and user rights. The decree establishes a number of consumer rights, including the right to access to a variety of competitively priced goods and services and the right to protection of consumers' pecuniary interests through fair and equitable treatment in all commercial transactions. To this end, it establishes the right of consumers to be free of discrimination on the basis of race, sex, socio-economic status, language, disability, political preferences, religious beliefs or any other such factor in connection with the acquisition of goods and services made available in establishments open to the public.

28. Act No. 27049²³ adds article 7-B to Legislative Decree No. 716, which states that consumers may not be the object of discrimination on the basis of race, sex, socio-economic status, language, disability, political preferences, religious beliefs or any other such factor in connection with the acquisition of goods and services made available in establishments open to the public. An objective rationale relating to the safety of the establishment or clients' tranquillity or other duly substantiated reasons must be given for any instance of exclusion.

29. The burden of proof concerning unequal treatment is borne by the consumer in question or by his or her representative.²⁴ Precedents have been set in regard to penalties for establishments employing discriminatory practices.²⁵ Cases of discrimination may be reported to the Consumer Protection Commission of the National Institute for the Defence of Competition and Protection of Intellectual Property (INDECOPI) by any natural or legal persons who feel that their right as a consumer to be treated fairly and equitably has been infringed upon.

30. In the area of consumer protection in advertising, Legislative Decree No. 1044, on unfair competition, has recently entered into force. The decree seeks to put a stop to advertisements that may give rise to acts of discrimination and to safeguard the educational role of commercial advertising.

²¹ Of 7 November 1991.

²² Published on 11 December 2000.

²³ Of 6 January 1999.

²⁴ The provision concerning the types of evidence that may be advanced as proof that discrimination has been practised in an establishment open to the public states that circumstantial and other indirect evidence may be adduced.

²⁵ As demonstrated by the cases cited earlier.

Legal provisions prohibiting discrimination in the civil service

31. Under the framework law on the modernization of the State, Act No. 27658,²⁶ the Government of Peru has set about modernizing its various agencies, offices, entities, organizations and procedures to improve governance and build a democratic, decentralized State at the service of its citizens. It has also established principles, measures, mechanisms and tools for doing so.

32. In keeping with these goals and as befits a democratic State, all civil servants must respect the Constitution and applicable laws, specifically the Civil Service Ethics Code set forth in Act No. 27815²⁷ and its accompanying regulations,²⁸ in the performance of their duties. Any civil servant who engages in a discriminatory act will thus be violating both the Constitution and the Code, thereby incurring occupational liability for a sanctionable act.²⁹

Legal provisions on the protection of aliens

33. At the national level, the Constitution establishes the defence of the human person and respect for the individual's dignity as the highest purpose of society and the State. Article 2 of the Constitution proclaims all persons' right to equality before the law (para. 2) and to choose their place of residence and enjoy freedom of movement (para. 11). It also establishes foreigners' right to use their own language when summoned by any authority. Foreigners have the same right to own property as nationals, with the sole exception that they are not allowed to acquire or possess any property within 50 kilometres of the border.

34. National laws include the Aliens Act (Legislative Decree No. 703), Decree-Law No. 25599, which defines the jurisdiction of the Migration and Naturalization Directorate in imposing the penalties provided for in the Aliens Act, and Legislative Decree No. 1043, which establishes new visa rules.

35. The employment of foreign nationals is governed by Legislative Decree No. 689 and its implementing regulations (Supreme Decree No. 014-92-TR).³⁰ Act No. 26196 introduces an amendment requiring that contracts be concluded in writing.

²⁶ Of 29 January 2002.

²⁷ Of 12 August 2002.

²⁸ Adopted by Supreme Decree No. 033-2005-PCM of 19 April 2005.

²⁹ The implementing regulations of the Civil Service Ethics Code state that penalties for infractions of the Code may take the form of censure, suspension, fines, termination of contract or dismissal. They also provide that the penalties are to be recorded in the National Registry of Sanctions and Dismissals.

³⁰ Amended by Supreme Decree No. 023-2001-TR.

36. The offence of people-smuggling has been incorporated into the Criminal Code via Act No. 27202.³¹ Peru also has modern legislation on the protection of foreigners in danger. The principles and protections set forth in international refugee laws have been incorporated into Act No. 27891 and its implementing regulations, contained in Supreme Decree No. 119 2003-RE. Similar regulations exist in respect of diplomatic and territorial political asylum.³²

Other efforts

37. Regional and local governments have been introducing regulations³³ that contribute to the progressive development of human rights. Specific mention may be made of a number of initiatives relating to discrimination. Ordinance No. 002-2008-A-MPA of the provincial municipality of Abancay,³⁴ which prohibits discrimination in all areas, is a landmark statute because it is the first of its kind in the country. This provision recognizes the equality of human beings and bans all forms of discrimination by reason of race, sex, religion, activity, health status, disability, place of origin or residence, age, language or any other factor.

38. Attention should be drawn to the work of the regional government of Apurímac, which has issued Regional Ordinance No. 017-2008-CR-APURIMAC³⁵ in order to prevent and eliminate all forms of discrimination. The particular importance of this regulation lies in the fact that it makes non-discrimination a cross-cutting issue in all human rights initiatives undertaken by that government and its various institutions.

39. Other local governments have been working along the same lines and have issued ordinances prohibiting discrimination. Examples include the district municipality of San Juan Bautista in Ayacucho,³⁶ the provincial municipality of Huamanga in Ayacucho³⁷ and the district municipality of Miraflores in Lima.³⁸

³¹ Of November 1999.

³² Act No. 27840 and its implementing regulations, as contained in Supreme Decree No. 092-2005-RE.

³³ Through their policymaking and deliberative organs, the regional councils and the municipal councils, respectively.

³⁴ Of 25 February 2008.

³⁵ Of 19 August 2008.

³⁶ Municipal Ordinance No. 010-2008-MDSJB/AYAC of 28 May 2008.

³⁷ Municipal Ordinance No. 021-2008-MPH/AYAC of 5 June 2008.

³⁸ Municipal Ordinance No. 294-MM of 25 August 2008.

3. Criminal Code

40. Discrimination is characterized as a criminal offence under article 323, chapter IV, title XIV-A: Crimes against humanity, of the Criminal Code:

“Any person who directly or indirectly discriminates against one or more individuals or group of persons, or who publicly incites or promotes acts of discrimination by reason of race, religion, sex, genetic factors, parentage, age, disability, language, ethnic or cultural identity, clothing, political or other opinion, or economic status for the purpose of nullifying or impairing the recognition, enjoyment or exercise of their rights shall be sentenced to imprisonment for a term of no less than two and no more than three years or to the performance of from 60 to 120 days of community service.

If the agent is a civil or public servant, the sentence shall be no less than two and no more than four years, in addition to disqualification as provided for under article 36, paragraph 2.

The same term of imprisonment shall be imposed if the act of discrimination has been carried out by means of physical or mental violence.”

II. ETHNIC MAKE-UP OF THE POPULATION

41. The Committee has requested that Peru provide information on the ethnic make-up of the population together with relevant socio-economic indicators.³⁹ It is concerned about the close relationship between socio-economic underdevelopment and ethnic or racial discrimination against part of the population, chiefly the indigenous and campesino communities.

A. The indigenous population

42. Peru’s indigenous population is made up of Andean and Amazonian peoples. Most of the Andean peoples are organized in campesino communities; a minority of the Amazonian peoples reside in native communities, while the rest live in isolation or are just beginning to make contact with the outside world. These people make up some 40 per cent of Peru’s total population,⁴⁰ according to the Inter-American Indian Institute. The extent of their influence in the country can be gauged by the fact that they control 23 million hectares of land and contribute 25 per cent of its gross domestic product.

43. The national population and housing censuses conducted in 1993 and 2007 by the National Institute of Statistics and Informatics (INEI) are the best sources of comprehensive information on Peru’s demographics. These two censuses used people’s mother tongue or dialect as the basis

³⁹ Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.69).

⁴⁰ According to the eleventh population census and sixth housing census, conducted in 2007, the total population (including the indigenous population) is 28,220,764.

for determining their ethnic identity. Although the use of this criterion may mean that indigenous persons who no longer use their mother tongue are not counted within the indigenous population, other objective factors can be used to arrive at estimates of the country's ethnic population.

44. Since the distribution of the population is associated with settlement and dispersal patterns, a methodology was used that measures the size of the indigenous population on the basis of the cross-tabulation of two variables: language learned during childhood and area of residence. This approach yields the total indigenous population estimates shown in the following table.

Census population aged 5 and over, by area of residence and language learned during childhood, 1993 and 2007

Area of residence/ language learned	1993 census		2007 census		Intercensal variation (as a percentage)
	Number of people	Percentage	Number of people	Percentage	
Total	19 190 624	100.0	24 687 537	100.0	
Spanish	15 405 014	80.3	20 718 227	83.9	3.6
Quechua	3 177 938	16.6	3 261 750	13.2	-3.3
Aymara	440 380	2.3	434 370	1.8	-0.5
Other native language	132 174	0.7	223 194	0.9	0.2
Foreign language	35 118	0.2	21 097	0.1	-0.1
Deaf mute	-	-	28 899	0.1	-
Urban	13 679 668	100.0	18 896 580	100.0	
Spanish	12 062 075	88.2	17 108 922	90.5	2.4
Quechua	1 395 387	10.2	1 521 391	8.1	-2.1
Aymara	170 766	1.2	189 525	1.0	-0.2
Other native language	19 096	0.1	39 337	0.2	0.1
Foreign language	32 344	0.2	20 493	0.1	-0.1
Deaf mute	-	-	16 912	0.1	-
Rural	5 510 956	100.0	5 790 957	100.0	
Spanish	3 342 939	60.7	3 609 305	62.3	1.7
Quechua	1 782 551	32.3	1 740 359	30.1	-2.3
Aymara	269 614	4.9	244 845	4.2	-0.7
Other native language	113 078	2.1	183 857	3.2	1.1
Foreign language	2 774	0.1	604	0.0	0.0
Deaf mute	-	-	11 987	0.2	-

Source: INEI, national population and housing censuses, 1993 and 2007.

45. According to the 2007 national population census, the majority of the country's population has learned Spanish during childhood. In all, 83.9 per cent of the population aged 5 and over reported having learned Spanish as a child, 13.2 per cent learned Quechua, 1.8 per cent learned Aymara and 0.9 per cent learned another native language.

46. A comparison of these results with the 1993 census figures indicates that the percentage of the population who reported that they had learned Spanish as a child rose by 3.6 percentage points, from 80.3 per cent (15,405,014 persons) in 1993 to 83.9 per cent (20,718,227 persons) in 2007, while the portion of the population reporting that they had learned Quechua as a child

shrank by 3.3 percentage points, falling from 16.6 per cent in 1993 to 13.2 per cent (3,261,750 persons) in 2007. The proportion of the population who said that they had learned Aymara as a child declined by 0.5 percentage points, from 2.3 per cent (440,380 persons) in 1993 to 1.8 per cent (434,370 persons) in 2007.

47. When the figures are tabulated by area of residence, they show that the vast majority (90.5 per cent) of the urban population learned Spanish as a child and that only 9.3 per cent reported having learned an indigenous or native language. By contrast, 37.5 per cent of the rural population aged 5 and over learned an indigenous language as a child, with Quechua accounting for a large percentage of this group (30.1 per cent).

48. Thus, comparisons with the 1993 census figures indicate that the proportions of the urban and rural populations who learn Spanish have increased while the percentages of those who learn Quechua and Aymara have decreased. The share of the population that learns a native language other than Quechua and Aymara has grown, however, particularly in rural areas.

49. INEI regularly conducts other types of research, such as national surveys and special population reports, in which the objective census variable of mother tongue or dialect is supplemented by the subjective variable of ethnic identification.

50. The available ethnic identification data⁴¹ indicate that 57.6 per cent of the population identify themselves as mestizo, 22.5 per cent say they are Quechuan and smaller percentages of the population classify themselves as falling into the following categories: white (4.8 per cent), Aymara (2.7 per cent) and Amazonian (1.7 per cent). A total of 9.1 per cent identify themselves as belonging to none of the categories listed or to some other category.

51. Peru is thus extremely culturally and linguistically diverse. This multicultural and multilingual make-up is reflected in the country's official ethnolinguistic map for 1994, which shows 72 indigenous ethnic groups (7 in the Andean region and the other 65 in the Amazon region), divided into 14 language families, living side by side with the non-indigenous population.

52. The indigenous population's predominantly rural distribution and settlement patterns match up with the poorest areas in the country. In recent years Peru has used poverty maps to identify these areas. The following table provides an overview of the 2006 poverty map prepared by the Cooperation for Social Development Fund (FONCODES).⁴²

⁴¹ INEI, *Estado de la población peruana 2007: Indocumentación y grupos étnicos* [Status of the Peruvian population, 2007: Ethnic groups and the lack of identity documents].

⁴² This programme is run by the Ministry for Women and Social Development. The Fund, which was created in 1991, joins in the effort to combat poverty, especially in rural areas, by financing social investment projects designed to enhance social and economic infrastructure and develop production capacity.

FONCODES departmental poverty map, 2006

Quintile	Departments	No. of departments	Total population, 2007	Percentage
Poorest	Huancavelica, Huánuco, Cajamarca, Apurímac, Ayacucho, Loreto, Amazonas, Pasco	8	5 169 682	19
Quintile 2	Cusco, Puno, Ucayali, Piura, San Martín	5	5 277 126	19
Quintile 3	Ancash, Junín, Madre de Dios, La Libertad, Lambayeque, Tumbes, Ica	7	6 040 644	22
Quintile 4	Moquegua, Arequipa, Tacna	3	1 602 617	6
Least poor	Lima, Callao	2	9 322 088	34
Total		25	27 412 157	100

Source: INEI population and housing census, 2007.

Prepared by: FONCODES Planning and Results Unit.

Note: The census data do not include the uncouneted population.

53. The above table has been divided into quintiles⁴³ based on the extent to which basic services are lacking and the existence of high illiteracy and undernutrition rates. As the table shows, the poorest two quintiles are composed of the Andean and Amazonian departments having the largest indigenous populations.

54. The ethnic peoples of the Amazon region were surveyed in 1993 in the first census of indigenous communities in the Peruvian Amazon.⁴⁴ These communities are scattered throughout the Amazon region and constitute discrete language families and ethnic groups. During the information-gathering phase, census-takers may not have reached the most remote corners of the Amazon region, which are inhabited by nomadic ethnic groups that have little contact with society, and the total census population and the estimated population may therefore not provide an entirely accurate picture of the size of this population group. Recent research conducted by the National Institute for the Development of the Andean, Amazonian and Afro-Peruvian

⁴³ A quintile is one fifth of a statistical population ranked in order from the least to the most of a given characteristic.

⁴⁴ As part of the eleventh national population census and the sixth national housing census, INEI conducted the second census of indigenous communities in the Peruvian Amazon. The results will provide up-to-date information on the inhabitants of the Amazon region and on their language families and ethnic groups. INEI is currently processing and analysing the sociodemographic and economic data compiled on the indigenous communities of the Amazon.

Peoples (INDEPA) indicates that approximately 20 peoples live in voluntary isolation⁴⁵ in the Peruvian Amazon; 15 of these groups have been identified and 10 of them are at the stage of initial contact with the outside world.⁴⁶

55. According to the results of this census, there are 299,218 members of indigenous groups in the Amazon region living in 1,450 communities belonging to 65 ethnic peoples (48 of which were enumerated in the census). The largest indigenous populations are found in the departments of Loreto (83,746), Junín (57,530), Amazonas (49,717) and Ucayali (40,463).

56. The age distribution of this population is highly concentrated in the younger age groups: 49.7 per cent of the population is between 0 and 14 years of age, 48.8 per cent is between 15 and 64 years, and just 1.5 per cent of its members are over 65.

57. Its members' level of education diverges substantially from the national average: 32 per cent of this population group has no schooling or has attended preschool only, 49 per cent has some primary schooling, and only 15.5 per cent has any secondary or higher education. As a result, this group has a 33 per cent illiteracy rate as a whole, with the rate for women (44 per cent) outdistancing the rate for men (23 per cent).

58. A number of studies indicate that parents' education levels influence trends in the birth rates of a given population group. Women who have 11 years of schooling or who finish secondary school have up to three fewer children than women who have not attended school. Women's levels of education and places of residence are thus contributory factors in the marked differences that exist in fertility and infant mortality rates. The highest fertility rates are found in the Quichua, Napo, Pastaza and Huambisa communities, where the average number of children per woman is 11; the lowest rate - 7.4 children per woman - is found among the Lamas and Chachapoyas. The Shipibo and Conibo communities have the highest infant mortality rate (153 deaths per 1,000 births) while the Ashaninka have the lowest (99 deaths per 1,000 births).

59. One of the main reasons for the native communities' high fertility and infant mortality rates and for the sharp differentials between their rates and those of other groups is the extreme poverty in which each of the native communities' lives. This is reflected in substandard living conditions and, in particular, low levels of education. The situation is exacerbated by high female illiteracy rates, especially among women between the ages of 12 and 49.

⁴⁵ The term "isolation" refers to the status of a sector or portion of the population which does not maintain social relations with the rest of national society or even with other communities or which had once had such relations but has since voluntarily decided to discontinue them as a result of earlier traumatic experiences, thus opting for survival, albeit under unfavourable conditions (*source*: Report No. 1 of the Public Defender's Office).

⁴⁶ Peoples are said to be at the stage of initial contact when they occasionally engage in relations with other peoples, have or have had sporadic or irregular ties with other foreign cultures, whether indigenous or not, and are in a vulnerable position because what contact they have had has been intense, traumatic or threatening (*source*: *Indígenas en aislamiento y contacto inicial* [Indigenous peoples in isolation and initial contact], Lima, 2008).

B. The Afro-Peruvian population

60. It is no longer possible to divide the Afro-Peruvian population into specific, distinct ethnic groups. Looking back in time, however, it is possible to identify some of the African ethnic groups who came to Peru and who are the progenitors of today's Afro-descendent population, including the Lucumies, Terranovos, Mandingas, Misangos, Congos and Caravelies. Presumably, the whole of the current Afro-descendent population retains some of the features, lifestyles and ways of life of those groups. Unfortunately, the identification of different languages is of no use in distinguishing among the various ethnic groups in this case, since in the course of their introduction into a new culture, people of African descent lost their mother tongues. What remains is a number of terms that have been mixed with Spanish, giving rise to some extent to a hybrid language.⁴⁷

61. A 2002 INEI study on the Afro-Peruvian population identified 106 population clusters with Afro-Peruvian inhabitants (89 in the southern coastal region and 17 along the northern coast). With regard to education levels, an INDEPA study based on the national household survey reports that Afro-Peruvians have completed an average of 7.48 years of schooling, which is quite close to the national average. Nearly one out of four Afro-Peruvians has not finished primary school; only a tiny percentage of people of African descent enter the university system, and just 2 per cent of those who do so succeed in completing their studies.

62. In a survey of the Afro-Peruvian population's perceptions of discrimination, 13.2 per cent of respondents said that they had been the object of some sort of discrimination.

III. LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLE 2 OF THE CONVENTION

A. Legislative measures regarding indigenous peoples

63. Peru, as a State governed by the rule of law that is respectful of human rights, promotes and ensures the protection of the individual and collective rights of indigenous peoples living in campesino or native communities or other forms of community.

64. Indigenous peoples are included in a constitutional and legal framework of protection. The Constitution, in addition to recognizing the right to ethnic and cultural identity as a fundamental right of every person and protecting the ethnic and cultural diversity of the nation, recognizes, in article 89, the legal existence of campesino and native communities and grants them the status of legal persons as entities that enjoy autonomy in the way they organize themselves, in their communal work, in the use and free disposal of their lands, and in their economic and administrative affairs.

65. The State respects their cultural identity in conformity with article 17 of the Constitution, which protects the country's cultural and linguistic diversity and also encourages bilingual and

⁴⁷ INDEPA.

intercultural education, according to the individual characteristics of each area. Moreover, in article 48, Quechua, Aymara and other aboriginal languages are recognized as official languages in the areas where their use predominates.

66. As campesino and native communities have a special relationship with the land because of their farming activities, the State gives preferential support to agricultural development by guaranteeing the right to land ownership, either privately or communally, or under any other form of partnership. The law may set the land boundaries and areas depending on the individual characteristics of each locality, pursuant to article 88 of the Constitution.

67. With respect to the environment and natural resources, the Constitution states that renewable and non-renewable natural resources are part of the nation's heritage, and the State has sovereignty over them. The conditions governing their use and attribution to individuals are laid down by organization acts.⁴⁸ Environmental policy is determined by the State, which promotes the sustainable use of its natural resources, the preservation of biodiversity and natural protected areas and the sustainable development of the Amazon region.

68. This recognition of ethnic and cultural identity and the State's obligation to protect it must be interpreted in conformity with the right to equality under the law, with no discrimination whatsoever on grounds of origin, race, sex, language, religion, opinion, economic status or any other such factor.⁴⁹

69. At the legislative level, the State recognizes the right and power of indigenous peoples and communities to dispose of their collective knowledge as they see fit through the Protection Regime for the Collective Knowledge of Indigenous Peoples Derived from Biological Resources Act (No. 27811).⁵⁰

70. Multilingualism is a fact of life in Peru and is legally protected in the education system by the Intercultural Bilingual Education Act (No. 27818). Peru has a national policy on intercultural bilingual education, with a programme on languages and cultures in education. The institution responsible for implementation is the Ministry of Education, through the General Directorate of Intercultural, Bilingual and Rural Education. In this regard, as part of the progressive realization of the rights of indigenous peoples, anyone applying for a teaching job in non-university higher education may take the interview in their native language, and their evaluation - in the regional phase - will take account of issues related to cultural diversity and multilingualism.

⁴⁸ Organization acts are governed by article 106 of the Constitution. They regulate the structure and operation of the State bodies defined in the Constitution, as well as other matters as determined by the Constitution. The vote of more than half the statutory number of Congress members is required for their approval and amendment.

⁴⁹ This right is also recognized in articles 2 and 3 of the International Covenant on Civil and Political Rights and in article 1 of the American Convention on Human Rights.

⁵⁰ Of 24 July 2002.

71. The General Environment Act (No. 28611) makes the following provisions:

Article 70. Indigenous peoples, campesino and native communities

When framing and implementing environmental policy and, in particular, in the process of environmental land management, the rights of the indigenous peoples and campesino and native communities, as recognized in the Political Constitution and in the international treaties ratified by the State, must be safeguarded. The public authorities shall promote their participation and integration in environmental management.

Article 71. Collective knowledge

The State recognizes, respects, registers, protects and contributes to the broader application of collective knowledge, innovations and practices of the indigenous peoples and campesino and native communities, since they are a manifestation of their traditional lifestyles and are consistent with the preservation of biodiversity and the sustainable use of natural resources. The State shall promote their fair and equitable participation in the benefits derived from the aforementioned knowledge and shall foster their participation in the conservation and management of the environment and ecosystems.

72. The Act on the Protection of Indigenous or Aboriginal Peoples in Isolation or Initial Contact (No. 28736),⁵¹ which was passed recently, contains the following definition of indigenous peoples in article 2: “Those who consider themselves as such, maintain their own culture, are in possession of a piece of land, and are part of the Peruvian State in conformity with the Constitution. They include indigenous peoples in isolation or initial contact.”

73. This Act aims to establish a special cross-sectoral protection regime for the rights of the indigenous peoples of the Peruvian Amazon who are in isolation or at the stage of initial contact, ensuring their rights to life and health and safeguarding their existence and integrity.

74. Furthermore, Peru subscribes to various international instruments on human rights and environmental protection in general and on the rights of indigenous peoples in particular. The most important of these is the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169, of 1989), ratified on 2 February 1994, but equally important are Agenda 21⁵² and the Convention on Biological Diversity.

⁵¹ Enacted on 16 May 2006.

⁵² Agenda 21 is a United Nations programme to promote sustainable development, in the sense of improving the quality of life of the community, while striking a balance between the natural environment and local economic capacities (economic development, social equality and environmental sustainability).

1. Establishment of the National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples

75. The National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples (INDEPA) was established on 16 April 2005 as a decentralized public body with financial, operational, administrative and organizational independence, attached to the Office of the President of the Council of Ministers pursuant to Act No. 28495.⁵³ It is responsible for promoting and monitoring compliance with national policies and coordinating with regional governments in carrying out projects and programmes to promote, defend, investigate and assert the rights and development of the identity of the Andean, Amazonian and Afro-Peruvian peoples.

76. Another function of the Institute is to ensure compliance with ILO Convention No. 169 vis-à-vis holding consultations with indigenous peoples when decisions are taken that may directly involve or affect them and, to that end, the discussions with indigenous organizations will be taken into account.

77. Pursuant to the aforementioned Act No. 28736, the State, through INDEPA, is implementing policies to protect these peoples from unsolicited and violent encounters. The basic principle behind protection measures for these peoples is to respect their right to isolate themselves if they so wish, guaranteeing that their lands will not be touched and that they will receive preventive health care to ensure their well-being when they are out of contact with national society, given that in years, decades or centuries past they chose to isolate themselves as a survival strategy following violent encounters.⁵⁴

2. Indigenous peoples, mining activities and the environment

78. The geographic features of Peru, especially in the unspoilt highlands and jungle regions where the indigenous Andean and Amazonian peoples live, are among the factors that complicate life in these areas. Other factors include the environmental impact of forestry, mining and hydrocarbon-related activities.

79. In response to these difficulties, in 1997 the Government set up the National System of Protected Natural Areas,⁵⁵ which granted indigenous peoples, in accordance with their ancestral customs and traditions, the exclusive and exceptional right to use the natural resources in national parks and sanctuaries, despite these areas being strictly protected. In other protected natural areas a range of activities making use of natural resources are allowed, under certain conditions laid down by the State.

⁵³ Its regulations were adopted on 10 August 2005 in Supreme Decree 065-2005-PCM and published on 12 August 2005.

⁵⁴ For example in connection with the rubber boom, terrorism or, in the case of the Nahua people, explorations by the Shell Oil Company.

⁵⁵ Act on Protected Natural Areas (No. 26834), published on 4 July 1997.

80. Similarly, there are special regulations, such as the General Water Act, the Forest and Forest Wildlife Act, the General Mining Act, the Act on the Protection of Access to Peruvian Biological Diversity and the Collective Knowledge of the Indigenous Peoples, which recognize State sovereignty over all natural resources and the right of campesino and native communities to use existing resources on the lands recognized as belonging to those communities.

81. However, there are undeniable conflicts between the Amazonian indigenous peoples and the oil and gas industry over the environmental impact of the industry's activities. The competent authority on this matter is the Ministry of Energy and Mining, which has implemented legislative measures conducive to the all-round development of society, and specifically the inclusion and promotion of the rights to a healthy environment, information, consultation and participation, property and the development of population groups living in the areas affected by mining and energy projects.

82. The three sets of regulations relating to hydrocarbons are based on the principle of the need to achieve a balance between environmental protection and development and to incorporate the concept of "sustainable development" in these activities, in order to enable current generations to meet their social, economic and environmental needs without damaging the ability of future generations to satisfy their own needs. The Regulations on Environmental Protection in Hydrocarbon-related Activities, adopted pursuant to Supreme Decree No. 015-2006-EM, stipulate that native and campesino communities must be respected while activities are being carried out. This can be achieved with the help of an "environmental management plan", which can identify measures to prevent or mitigate any impact on the population or the immediate environment.

83. The Safety Regulations on Hydrocarbon-related Activities, adopted pursuant to Supreme Decree No. 043-2007-EM, are intended to preserve the safety and health of those directly concerned and to protect third persons from any risks arising from hydrocarbon-related activities.

84. The Regulations on Citizen Participation in Hydrocarbon-related Activities, adopted recently pursuant to Supreme Decree No. 012-2008-EM, recognize the right for citizens to be consulted on and participate in environmental management activities,⁵⁶ in line with the Constitution, the General Environment Act and other relevant legislation. Accordingly, the regulations incorporate the provisions of Legislative Decision No. 26253 (which ratifies ILO Convention No. 169) regarding the responsibilities of governments to develop affirmative measures for the indigenous population, in particular those relating to citizen participation.

85. In addition, in the mining sector, regulations on the environment and citizen participation⁵⁷ have been introduced to ensure mining operators meet their obligations with regard to the negative impact and consequences of their activities, not only upon closure but also afterwards.

⁵⁶ The regulations stipulate that citizen participation must take place before the contract is signed, at the environmental study and evaluation stage, and after commencement of activities, i.e. during the whole of the project cycle, highlighting the importance of community oversight.

⁵⁷ Adopted pursuant to Supreme Decree Nos. 020-2008-EM and 028-2008-EM respectively.

They also stipulate that, before commencement of mining exploration activities, the right to use the overlying land must be established. This means there is an obligation to reach a prior agreement with the owners of the land, whether they are a campesino or native community or a third party.

86. Although the legal framework has been in place since 2002, the regulations on citizen participation have brought improvements and established definitions in line with ILO Convention No. 169, as well as stipulating that prior consultation does not give veto rights over mining activities.

87. Finally, the recent establishment of the Ministry of the Environment, pursuant to Legislative Decree No. 1013, is evidence of the Peruvian Government's concern to ensure the right of all citizens to a balanced environment, the protection of biodiversity and the pursuit of sustainable development.

3. Legislative initiatives

88. Draft legislation on indigenous peoples has been submitted to Congress. The following bills have been approved by the relevant standing committees:

89. **Bill No. 02016/2007-CR**, submitted on 18 December 2007, proposes the Act on the Consultation and Participation of Indigenous Peoples in Environmental Matters. It has the approval of the Committee on Andean, Amazonian and Afro-Peruvian Peoples, the Environment and Ecology, but also requires the approval of the Committee on Constitutional Matters in order to be passed in plenary session by Congress.

90. The bill aims to ensure that legal or administrative measures and any projects concerning land management, the exploration and exploitation of natural resources, or the construction of infrastructure that may affect the rights of indigenous peoples have the prior, free and informed consent of these peoples. It also aims to implement clearly the recognition of the right of indigenous peoples to prior, free and informed consultation and to express their consent in accordance with articles 6, 7 and 15 of ILO Convention No. 169 (Legislative Decision No. 26253, of 2 December 1993) and articles 10, 19, 28, 29 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples, adopted on 13 September 2007.

91. **Bill No. 00413/2006-CR**, submitted on 10 October 2006, proposes a provision for the prior consultation of indigenous communities on the exploitation of natural resources (bill updated pursuant to earlier Council Directive No. 7808/2003-CR). It has the approval of the Committee on Andean, Amazonian and Afro-Peruvian Peoples, the Environment and Ecology, but also requires the approval of the Commission on Constitutional Matters to be passed in plenary session by Congress.

92. The aim of prior consultation is to enable members of an indigenous community to analyse and give their views on the possible economic, environmental, social and cultural impact of the exploitation of natural resources in their territory, and so provide a basis on which the relevant authorities can make a final decision on the viability of the project, in compliance with the Act on the Promotion of Dependable and Responsible Investment in Peru.

93. **Bill No. 00221/2006-CR**, submitted on 15 September 2006, proposes the Act on the Translation and Dissemination in the Official Languages of Legislation Affecting the Native and Indigenous Peoples of Peru. It has the approval of the Committee on Andean, Amazonian and Afro-Peruvian Peoples, the Environment and Ecology, but also requires the approval of the Committee on Education, Science, Technology, Culture, Cultural Heritage, Youth and Sport to be passed in plenary session by Congress.

94. This bill seeks the translation and publication in the various official languages of Peru of legislation that affects indigenous peoples, especially legislation concerning human rights, women's rights and the rights of children and adolescents.

95. **Bill No. 00806/2006-CR**, submitted on 14 December 2006, proposes the Act on the Preservation and Use of the Native Languages of Peru. It has the approval of the Committee on Andean, Amazonian and Afro-Peruvian Peoples, the Environment and Ecology, but also requires the approval of the Committee on Education, Science, Technology, Culture, Cultural Heritage, Youth and Sport to be passed in plenary session by Congress.

96. This bill aims to specify the scope of individual and collective rights and guarantees with respect to languages, as established in article 48 of the Constitution. The bill states that all native languages are an expression of a collective identity and distinct way of perceiving and describing reality and therefore the conditions required to maintain and develop all aspects of those languages must be assured.

B. Administrative and other measures regarding indigenous peoples

1. Truth and Reconciliation Commission

97. One of the conclusions of the final report of the Truth and Reconciliation Commission⁵⁸ is that 75 per cent of victims of violence belonged to the Quechua and other indigenous communities. This is due to their location in the main areas of internal armed conflict. In order to address the particular vulnerability of indigenous peoples, the State has sought to give them the necessary means for their development.

98. In this connection, the Ministry of Women and Social Development proposed that a large-scale study of villages affected by the violence, called the "Census for Peace", be conducted to make it easier to frame policies for restoring, nurturing, developing and promoting a culture of peace. Five phases of the census have been completed so far.⁵⁹

⁵⁸ After collecting 16,986 statements from witnesses nationwide and holding 21 hearings with the victims of violence, attended by over 9,500 people.

⁵⁹ In the first phase (first half of 2001), field information was collected from 1,938 villages affected in the departments that had suffered the most upheaval during the period from May 1980 to November 2000 (Ayacucho, Apurímac, Huancavelica, Junín, Puno and Huánuco). In the second phase (October-December 2002), 934 villages affected were recorded in the departments of Ancash, Cajamarca, La Libertad, Piura, Pasco, Lima, Ucayali, and San Martín

Comprehensive Reparations Plan

99. On 28 July 2005, pursuant to Act No. 28592, the Comprehensive Reparations Plan⁶⁰ for the victims of violence was drawn up in accordance with the recommendations of the Truth and Reconciliation Commission. In 2006, the corresponding regulations were adopted⁶¹ establishing the mechanisms, modalities and procedures for access to programmes under the plan.

100. Act No. 28592 also provides for a Reparations Board to prepare a Central Register of Victims. By October 2008, the Board had registered 1,631 names in volume 1 (individual victims), and in volume 2 (communities) it had registered 1,243 communities and population centres, mostly in Junín, Huancavelica, Apurímac and Cusco - some of the areas that suffered most from the violence that took place between 1980 and 2000. The Reparations Board has created a social and institutional support network that has enabled it to deploy an inclusive nationwide strategy that takes into account the country's multiculturalism and its special ethnic, social, economic, linguistic, gender and health-related features; identification with the activities carried out; legitimization of work; and garnering support for the gathering of information and the necessary social and political support are actions it has also successfully carried out.⁶²

and in the province of Satipo in Junín. The third phase (first half of 2003) focused on naming the victims identified in the first phase of the census, in the departments of Ayacucho, Apurímac, Huancavelica, Junín, Puno and Huánuco. The fourth phase (April-September 2006) focused on collecting information from the villages affected where the previous phases of the Census for Peace had not yet reached. Information from 2,057 villages affected in the departments of Ayacucho, Apurímac, Cusco, Huancavelica, Pasco, Junín, Huánuco, San Martín and Ucayali was recorded. This task was carried out by the High-level Multisectoral Commission (see paragraph 102 below) as part of the implementation of the Comprehensive Reparations Plan.

⁶⁰ The Comprehensive Reparations Plan is composed of programmes on education, health, collective reparation, etc., considering as individual beneficiaries the families of disappeared or dead victims, including the spouse or partner, children and parents of the victim.

⁶¹ Pursuant to Supreme Decree No. 015-2006-JUS of 5 July 2006.

⁶² Annual Report of the Reparations Board 2007. In 2009, the Reparations Board intends to expand its operations by launching a national campaign to collect information on the victims of violence in the 10 worst affected departments. The Board's aim for the next 12 months is to include in the Central Register of Victims cases from existing registers such as the list of victims of the National Police, the Armed Forces and the Self-Defence Committees; cases of forced disappearance, from the Office of the Ombudsman; the National Registry of Victims of Huancavelica; the National Register of Displaced Persons compiled by the Ministry of Women and Social Development; 159 cases contained in the joint press communiqué issued by the Inter-American Commission on Human Rights and Peru in January 2001, and volume 2 of the Census for Peace. Also this year, the Central Register will incorporate the records of the 10 departments prioritized by the Reparations Board, and open special units in 15 departments with a view to identifying some 80,000 individual victims by the end of 2008.

101. In this connection, the Reparations Board has worked in close cooperation with the central, regional and local governments and with autonomous agencies and bodies such as the National Register of Identity and Civil Status, the judiciary, the Public Prosecutor's Office and the Office of the Ombudsman.

102. Mention should also be made of the establishment, in February 2004, of the High-level Multisectoral Commission to monitor State action and policies regarding peace, collective reparation and national reconciliation (Supreme Decree No. 003-2004-JUS). Like the Reparations Board, the Commission is currently answerable to the Office of the President of the Council of Ministers. Its purpose is to provide the State with a mechanism for accepting, and taking responsibility for implementing, the recommendations of the Truth and Reconciliation Commission. In practice the commission focuses on implementing the Collective Reparations Programme, whose budget allocation was 45 million nuevos soles for 2007, 46 million nuevos soles for 2008, and 40 million nuevos soles for 2009. The programme benefits 440 campesino and native communities in the regions most affected by the violence, providing funding for productive projects.

2. Programmes to combat poverty and national plans

103. In Peru's case, poverty and extreme poverty are directly related to exclusion and marginalization, which only serve to heighten inequalities among the population. The indigenous population is vulnerable to poverty because of its geographic location, according to the 2006 poverty map of the Cooperation for Social Development Fund. This map has been very useful in determining where resources should be allocated and in identifying the poorest populations who should benefit not only from social and economic infrastructure projects, but, more importantly, from those projects that will generate permanent income for the sectors in greatest need.

104. The elimination of poverty is one of the Peruvian Government's priorities and it has therefore designed and implemented a series of cross-sectoral and sector-specific programmes and plans, which have been delivering good results. According to the INEI national household survey, poverty has been reduced from 55 to 39 per cent in the last seven years.⁶³ However, it should be noted that significant reductions in poverty and extreme poverty have only been achieved in the capital and some coastal regions.

Programmes

105. The Peruvian State is implementing national programmes under the responsibility of different sectors of the Executive. Funding for these programmes was 3.2 million nuevos soles in 2007 and 4.5 million nuevos soles in 2008,⁶⁴ some of these programmes are described below.

⁶³ Address of Prime Minister Yehude Simon to commemorate the sixtieth anniversary of the Universal Declaration of Human Rights.

⁶⁴ Statements made by the chair of the executive board of the "Juntos" programme, Mr. Iván Hidalgo, to the magazine *Caretas* 2019, 19 March 2008.

“Crecer” (Growing) national strategy

106. By 2011, the goal is to diminish by nine percentage points the number of malnourished 6-year-olds faced with nutritional vulnerability and poverty, using an approach based on rights, the protection of human capital, social development and shared responsibility and by means of coordinated multisectoral action with funding from the institutional budgets of those sectors. This strategy is now being implemented, reaching 219,000 children in the first phase and 480,000 in the second.

“Juntos” (Together) programme

107. In order to combat chronic child malnutrition and extreme poverty, families are given an incentive payment of 100 nuevos soles to spend as they see fit. Recipients must, however, make a commitment to meet certain requirements, including the enrolment of their children in school and regular medical check-ups. In 2007, the programme covered 14 departments and benefited 372,918 families.

Comprehensive health insurance

108. The aim of this scheme is to protect the health of Peruvians without health insurance, prioritizing the most vulnerable living in conditions of poverty and extreme poverty. Between January and December 2007, treatment was provided in 21,537,406 cases.

National plans

National Human Rights Plan, 2006-2010

109. The National Human Rights Plan for 2006 to 2010 was prepared as part of the State's efforts to produce a comprehensive document on the promotion, dissemination and defence of human rights, in order to: (a) fulfil the obligation contracted by Peru at the Vienna World Conference on Human Rights in 1993; (b) comply with policy No. 28 of the National Accord on State Policies;⁶⁵ and (c) meet the undertakings made by Peru in its application for membership of the Human Rights Council.

110. Accordingly, the State launched an unprecedented process of broad consultation, including 18 public hearings preceded by preparatory pre-hearings. These were held nationally with the active participation of representatives of public and private institutions and grass-roots social organizations from around the country and involved approximately 2,800 people nationwide, 78 per cent of them from civil society.

111. One section of the National Human Rights Plan concerns combating discrimination and identifies the more vulnerable sectors of the population, including indigenous peoples, with a

⁶⁵ The State is committed through this agreement to adopting legal and administrative measures to implement and disseminate the Constitution, ensuring unconditional respect for human rights and the punishment of those responsible for violations thereof.

view to strengthening measures to guarantee their rights. The plan recommends action to promote a social culture of respect for difference, avoiding violent or degrading treatment on grounds of, inter alia, race, religion, gender or sexual orientation.

112. In this respect, the present document is a first step towards achieving this goal. It sets out an initial approach to tackling the problem of discrimination as a social and cultural phenomenon affecting social integration and citizen participation and outlines, from a conceptual and legal perspective, the different aspects of the right to non-discrimination, emphasizing its nature as a fundamental human right and the mechanisms for its protection.

Other national plans

113. Other national plans approved by different State bodies include policies and guidelines on strengthening measures to guarantee rights and encouraging the promotion of a culture of respect for differences when framing public policies, avoiding unjustified or unreasonable degrading and unfair treatment on grounds of, inter alia, race, religion, gender, social status or sexual orientation. Below is a brief description of the plans that include such rights.

114. **National Plan for Education for All, 2005-2015.** Under the slogan “Quality and Equity in Education”, this plan was adopted in September 2005 by the Ministry of Education and embraces the notion of equity as a theme for framing public policies in education. Particularly worth noting is its goal of guaranteeing equity in education in order to overcome disparities derived from gender inequity and sociocultural, ethnic and linguistic discrimination.

115. **National Plan for Equal Opportunities for Men and Women, 2006-2010.**⁶⁶ The main strategy of this plan, drafted as part of the State’s modernization process and following on from the plan of the same name for 2000-2005, is to eliminate poverty, while setting out a general policy and moral commitment towards the women of Peru. It provides five approaches based on national and international standards (on human rights, gender equity, intercultural and intergenerational values, and territorial rights).

116. **National Action Plan for Children and Adolescents, 2002-2010.**⁶⁷ This plan was adopted by the Ministry of Women and Social Development and is based on the rights, freedoms and obligations of children and adolescents enshrined in the Convention on the Rights of the Child and the Peruvian Code on Children and Adolescents. It has two major goals: to ensure that children and adolescents are able to exercise their rights and responsibilities within a legal framework and in a democratic country where human rights are respected; and to create conditions within the State and society that guarantee the development of children and adolescents as human beings and reduce the poverty and exclusion which affects them throughout their lives.

⁶⁶ Adopted by Supreme Decree No. 009-2005-MIMDES.

⁶⁷ Adopted by Supreme Decree No. 003-2002-PROMUDEH.

117. **National Plan for Older Persons, 2006-2010.**⁶⁸ Aimed at promoting an inclusive society for all ages, this plan considers various aspects of non-discrimination, such as the principle of “gender equity, fostering equal opportunities between men and women without discrimination”.

118. **National Family Support Plan, 2004-2011.** This plan was adopted by Supreme Decree No. 005-2004-MIMDES, based on article 4 of the Constitution and various human rights treaties. It takes the family as the starting point for promoting equity and equal opportunities for men and women and for children, older persons and population groups living in conditions of poverty or extreme poverty that are discriminated against and excluded.

119. **National Plan for the Prevention and Eradication of Child Labour.** This plan was adopted by Supreme Decree No. 008-2005-TRA, in compliance with the various treaties ratified by Peru,⁶⁹ with a view to taking effective measures to prevent and eradicate child labour, especially when there is even the slightest indication that their well-being and development are at risk.

120. **National Plan for the Restitution of Identity, “Documenting the Undocumented”, 2005-2009 (National Register of Identity and Civil Status).** This plan was adopted⁷⁰ because the topic is of such national interest and because the issue of identification and the problems facing undocumented individuals need to be taken into account in the design and implementation of public policies. The plan focuses on rights, gender and intercultural values in two fundamental areas: (a) Prevention of undocumented status, in order to avoid any increase in the number of individuals - especially children and adolescents - who do not exist in the eyes of the law because they have no means of identification; and (b) the restitution of identity, with the aim of documenting undocumented individuals, with special emphasis on the vulnerable groups mentioned in the analysis (persons living in poverty or affected by internal armed conflict, indigenous or Afro-Peruvian peoples, women, children, disabled persons and older persons).

⁶⁸ Adopted by Ministerial Decision No. 156-2005-MIMDES.

⁶⁹ Mainly the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182, of 1999), the ILO Convention concerning Minimum Age for Admission to Employment (No. 138, of 1973) and the Convention on the Rights of the Child and its two optional protocols, on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography.

⁷⁰ Plan adopted pursuant to Administrative Decision No. 772-2005-JEF/RENIEC of 11 July 2005.

IV. LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLE 4 OF THE CONVENTION

A. Classification as an offence

121. The offence of discrimination was incorporated into the Criminal Code by the Act Combating Acts of Discrimination (No. 27270).⁷¹ Subsequently, Act No. 28867⁷² amended article 323 of the Criminal Code, extending the grounds on which the offence of discrimination can be applied. Previously, discrimination was considered a punishable offence under the Criminal Code only on grounds of race, ethnic origin, religion or sex. Under the amended Act, it is also considered an offence on grounds of genetic factors, parentage, age, disability, language, ethnic and cultural identity, clothing, political or other opinion, or economic status.

122. The amendment is a great step forward in this field, as it also introduced a new criterion for establishing that the offence has been committed: the intention of the perpetrator, which could be to nullify or impair the recognition, enjoyment or exercise of a person's rights, including through a third party. Furthermore, it is a punishable offence not only to discriminate against a person or a group of persons, but also to incite or publicly promote discriminatory acts, as well to discriminate through acts of physical or mental violence.

123. The amendment increased the penalties to no less than two years' and no more than three years' imprisonment or the performance of 60 to 120 days of community service.⁷³

124. Finally, the penalty imposed on civil servants who commit this offence has been increased to include disqualification and a custodial sentence of no less than two years and no more than four years.

B. Statistics on cases of discrimination reported to the Public Prosecutor's Office

125. Nationwide, in 2006, 12 cases were submitted to the provincial criminal prosecutor's offices, in 2007, 16 cases were submitted, and in 2008 there were 14 cases, giving a total of 42 cases for the specific offence of discrimination; 74 per cent of those cases were reported in the judicial district of Lima.

⁷¹ Published on 29 May 2000.

⁷² Act No. 28867 of 9 August 2006 increased the penalties for the offence of discrimination and the grounds on which it can be applied.

⁷³ Previously, the penalty was 30 to 60 days of community service or 20 to 70 days of daytime confinement on Saturdays, Sundays and holidays.

C. Other measures adopted by the Public Prosecutor's Office

126. The Office of the Attorney-General approved the directive on gathering information relating to cases that have been submitted to or that are being investigated by the prosecutor's offices for crimes against humanity.⁷⁴ The directive aims to centralize information on complaints, investigations and proceedings being conducted for the crimes of genocide, enforced disappearance, torture, discrimination and genetic engineering, as provided for in articles 319 to 321 and 323 of the Criminal Code.

V. LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLE 5 OF THE CONVENTION

A. Security of person and protection by the State

127. With regard to the rights relevant to this section, the Committee raised some concerns in its concluding observations on the previous periodic report of Peru, such as conscription by force of persons in native communities into self-defence committees under the armed forces and compulsory military service;⁷⁵ the following information is therefore being provided.

1. Counter-insurgency campesino patrols or self-defence committees

128. The first defensive responses of Peruvian campesinos to the armed action of the Communist Party of Peru-Sendero Luminoso terrorist group began in 1982 with the establishment of counter-insurgency patrols.⁷⁶ These grew and became increasingly organized in the rural areas affected by the conflict until they brought an end to terrorism in the countryside.⁷⁷ The counter-insurgency patrols spread to the central forest, the traditional territory of the Ashaninkas and Nomatsiguengas. Many indigenous persons who remained in areas controlled by the Sendero Luminoso suffered punishments and were reduced to a life of servitude in subhuman living conditions.

129. In that difficult situation, the campesinos and indigenous people had to set up counter-insurgency patrols, either because they wished to protect themselves from the abuses of Sendero Luminoso or because they were forced to do so by the security forces or the patrols

⁷⁴ Decision of the Office of the Attorney-General No. 375-2004-MP-FN of 26 February 2004.

⁷⁵ Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.69).

⁷⁶ Two types of campesino patrol were formed in Peru: in the northern departments of Cajamarca and Piura, the campesinos arranged to defend themselves without weapons, mainly against cattle theft.

⁷⁷ They have their origins in the sierra of the department of Ayacucho. At the end of the 1980s, self-defence committees were set up in other departments where the rebel groups had a strong presence, such as Junín, Apurímac, Huancavelica, Huánuco, San Martín and Pasco.

from neighbouring villages. In a war context, it was inevitable that the counter-insurgency patrols would contribute to the cycle of violence, despite their important contribution towards re-establishing peace.⁷⁸

130. The counter-insurgency patrols are legally recognized as self-defence committees⁷⁹ by Decree-Law No. 741 of 8 November 1991 and regulated by Supreme Decree No. 077/DE-92 of 19 October 1992.

131. According to the information provided to the Truth and Reconciliation Commission⁸⁰ by the Armed Forces Joint Command, there are currently about 8,000 legally recognized self-defence committees. However, it is difficult to give a precise figure as many were quietly disbanded after the period of violence ended and others have continued as a defence against cattle theft, and, in general, are not armed.

132. The Peruvian State has been working to build a culture of peace so that subversive violence will never again infiltrate community and family life, which is why patrol members and their families, who were victims of the terrorist violence, have been included in the Comprehensive Reparations Plan. The Armed Forces Joint Command has paid compensation⁸¹ and, on 18 January 2006, with a view to updating the database on the members of the self-defence committees nationwide, it approved Directive No. 027 on inspection visits and setting up a database to monitor the self-defence committees.

2. Abolition of compulsory military service

133. Military service was compulsory in Peru until September 1999 when Act No. 27178 was enacted, making it voluntary. Furthermore, in June 2008, Congress approved the new Military Service Act (No. 29248), which includes a range of benefits for those who voluntarily carry out full-time military service, including advanced technical training in various fields, with the possibility of beginning, continuing and completing university studies or tertiary education. A monthly allowance, which will be gradually increased to 10 per cent of the taxation unit, is also paid. The Act will come into force on 1 January 2009.

⁷⁸ Truth and Reconciliation Commission, final report, vol. II, part one, second section, chap. 1, Self-defence committees.

⁷⁹ Their role was to fight to defend their communities, prevent the spread of terrorism, defend themselves from terrorist attacks and support the armed forces and the national police in peacebuilding activities.

⁸⁰ See note 78.

⁸¹ On 26 January 2006, the relatives of 22 deceased members of self-defence committees and one who had experienced temporary disability received compensation totalling 878,000 nuevos soles. On 7 September 2006, 20 members of self-defence committees or their relatives in the departments of Ayacucho, Junín, Huánuco and San Martín were each paid compensation amounting to 39,000 nuevos soles.

B. Civil and political rights

134. The right to an identity is enshrined in the Constitution and is exercised from the moment a person is entered in the civil register. Registration is compulsory; everyone has the right to register and that right is directly linked to the enjoyment of other rights, including the right to have a national identity document and access to health care and food.

135. The National Institute of Statistics and Informatics indicates that, according to the 2007 census, 3.2 per cent of the population over the age of 18 (564,487 persons) has no national identity document. In rural areas, 6.4 per cent of the population over the age of 18 (234,532 persons) does not have papers. However, some 20 million Peruvians (72 per cent of the total population) do have a national identity document.

136. In this context, the National Register of Identity and Civil Status has put in place a procedure for accrediting register offices in the different native and campesino communities, authorizing auxiliary register offices to operate in native communities that, given the distance to the main register office, need to have an office nearby to enable inhabitants to register. The aim is to guarantee that the population living in native and campesino communities can effectively exercise their right to an identity.

137. As part of its social policy to provide papers to those who do not have any, the National Register of Identity and Civil Status organizes free registration campaigns. For example, Administrative Decision No. 224-2005-JEF/RENIEC approved a campaign to process and issue national identity documents free of charge for the indigenous population and inhabitants of rural areas and the Amazon region living in poverty; the number of persons covered by this campaign was subsequently increased.⁸²

138. Similarly, on 11 July 2005, the National Plan for the Restitution of Identity, “Documenting the undocumented”, 2005-2009, was approved by Administrative Decision No. 772-2005-JEF/RENIEC. That social policy document contains an analysis of the situation of undocumented persons and sets out actions aimed at rectifying or avoiding that situation by proposing structural, legislative, technological and other changes. The document focuses on the sectors of the population living in poverty and in vulnerable situations, such as indigenous peoples.

139. The plan was drafted with a focus on three elements: rights, gender and interculturalism. The latter is related to respect for and recognition of different cultures, in terms of their values, attitudes, rules, ideas, habits and internalized perceptions, as well as their social roles, structures, relationships, codes of conduct and how they explain the behaviour of diverse groups of people.

140. The National Elections Tribunal, as the lead body in the electoral system and in its role as a judicial and supervisory body, has ensured that the quotas for the native communities and indigenous peoples in Peru have been met, without neglecting its strenuous and constant efforts

⁸² By Administrative Decision No. 1225-2005-JEF/RENIEC, published in the newspaper *El Peruano* on 29 December 2005.

to promote the inclusion of indigenous persons in national politics. Similarly, the Tribunal, through bill No. 1688-2007-JNE, has sought to correct the flaws in the legislation governing indigenous, youth and gender quotas.

141. To that end, the Tribunal has been carrying out an extensive voter education campaign, which also aims, among other things, to prevent discrimination against certain ethnic groups.

142. It is worth highlighting that the educational function of the National Elections Tribunal is different to that of the National Election Procedures Office, which is to teach the population, the electoral staff and the representatives of political organizations about the electoral process before the election takes place.⁸³ In contrast, under article 5, paragraph x, of Organization Act No. 26486, the Tribunal can carry out educational activities for voters at any time, regardless of whether elections are being held.

143. With regard to the decisions of the courts or judicial and administrative bodies in cases of racial discrimination, the National Elections Tribunal has taken a number of concrete measures in its role as the jurisdictional authority on electoral matters.

144. In this role, which goes hand in hand with its electoral monitoring role, the Tribunal has issued a considerable number of decisions aimed at safeguarding the right of indigenous peoples to participate in politics.

145. Furthermore, the Tribunal has used its right to propose legislation to try to improve the existing legal framework with a view to establishing quotas for indigenous peoples, first at local government level, where only the criterion of proportionality is used to determine the number of seats in the town council.⁸⁴

146. Bill No. 1688-2007-JNE, if approved by Congress, could make it possible for representatives of indigenous peoples and native communities to be eligible for preferential votes on the winning party's list in a municipal election. The bill also includes campesino communities in this quota. The inclusion of representatives of campesino communities in the aforementioned bill is, undoubtedly, necessary if the participation of the indigenous sector in national politics is to be increased.

147. The use of a quota for representatives of indigenous peoples and native communities is an effort to include indigenous people in the political process and is expressly recognized in positive law, including, for example, in article 191 of the Constitution.

148. Although in Peru universal suffrage is understood to be the right of every citizen, without discrimination or exception, to participate in politics, the reality does not always reflect this principle. One reason for this is the failure to pay sufficient attention to the diversity of cultures and languages in different parts of the country.

⁸³ This function of the National Election Procedures Office is regulated by article 5, paragraphs h and n, of Organization Act No. 26487.

⁸⁴ By contrast the regional governments combine two criteria for determining the number of seats: proportionality and geography.

149. Within the framework of the powers and responsibilities of the National Election Procedures Office, great emphasis has been placed on improving the electoral processes for which the office is responsible, and on training as a way to take account of the cultural and linguistic differences of those involved in the elections (electoral staff and voters). For each election, training materials are produced in the languages of the voting population and the presence of illiterate voters is also taken into account.

150. The National Election Procedures Office is pursuing an intercultural voter education process that seeks to promote living together in harmony by recognizing the richness of different cultures and cultural interaction on an equal basis. The method applied is therefore participatory and seeks to establish a relationship that takes account of the cultural and linguistic diversity of the country, while also focusing on gender equity and positive discrimination for vulnerable groups.

151. The inclusion of the indigenous population, rural women and citizens with disabilities has been taken into consideration in the planning and implementation of voter education and training programmes for all elections.

152. For example, one of the goals for the regional and municipal elections in 2002 was to increase turnout among indigenous voters from five ethnolinguistic groups: the Quechua, Aymara, Ashaninka, Aguaruna and Shipibo.

153. The voter training carried out by the National Election Procedures Office, which is aware of the cultural and linguistic diversity of the country, placed the emphasis on intercultural, bilingual voter education in its training activities, strategies and materials.

154. This approach was applied during the elections held between 2001 and 2005. For the 2001 general election, changes had been made to various activities since previous elections and improvements were implemented between the first and second rounds.⁸⁵ In order to make these changes, the National Election Procedures Office pooled its efforts with those of civil society bodies.⁸⁶

⁸⁵ The innovations included the publication and distribution of brochures in indigenous languages, the implementation of a specific education strategy for voters and electoral staff in rural areas and areas with a high concentration of indigenous voters and the hiring of 250 outreach workers to implement an intensive voter education campaign targeting the population in these areas.

⁸⁶ CODISPAS, CAAAP, CECYCAP, IDEL, SER, CODEH-Huacho, CMP Flora Tristán, CEDEP, CESIP, Movimiento Manuela Ramos, CEPES, Calandria, Transparencia, Red Nacional Mujer Rural, Kalpa, Consorcio de ONGs Ayacucho, Vicarías de Sicuani, Ayaviri, Pucallpa and Juli, Confederación Campesina del Perú, Confederación Nacional Agraria, Centro IDEAS, CIDIAG, ITDG, IDL, APRODEH, CNDDHH, Movimiento Amplio de Mujeres, and Instituto Bartolomé de las Casas.

155. It was possible to take this approach thanks, in part, to the financial support of the international community for projects during the 2001 elections.⁸⁷

156. The majority of the places where the 2001 popular vote on the removal of public officials from office was held were rural (174 districts and 1 province) and in many cases the voters were illiterate or citizens who spoke indigenous languages, such as Quechua, Aymara and Shipibo. The National Election Procedures Office therefore prepared voter materials in indigenous languages, provided individual training where possible, and used dissemination methods that were appropriate to the reality on the ground, for example, by participating in fairs, community events and public festivals with the support of mobile voter-information booths.

157. For the 2004 popular vote on the removal of public officials from office, the *Rural Education Guide* was published for voter educators and a short radio programme was produced for electoral staff.

C. Economic, social and cultural rights

1. Right to work

158. The indigenous population of Peru engages mostly in agricultural activities and the extraction of natural resources, for the most part at subsistence level. In villages in the Andes, families derive their income from the sale of farm produce, livestock and handicrafts, while in Amazonian villages the main source of income is the sale of handicrafts and indigenous products in urban areas; bartering is still practised for basic necessities.

159. The Ministry of Foreign Trade and Tourism is implementing a package of projects, programmes and activities to help rural and indigenous communities to participate in economic and social life. This will improve their quality of life, since tourism and craftwork create jobs

⁸⁷ The funding received from the Swiss Agency for Development and Cooperation (SDC) and the United States Agency for International Development (USAID) was used to produce booklets, posters and leaflets (in Andean and Amazonian languages), as well as flyers to promote the participation of rural women. Furthermore, as a result of the agreement between the National Election Procedures Office and USAID and within the framework of the “2001 general elections: voter education, training and protection” project, voter training was carried out in rural Andean and Amazonian areas, which involved the publication of information and training materials in Quechua, Aymara and three Amazonian languages. Booklets, posters and leaflets were printed and short radio programmes were produced in five indigenous languages (Quechua, Aymara, Ashaninka, Shipibo and Aguaruna) and were disseminated through about one hundred voter-information booths, street musical performances, and voter-information fairs, which were held in 162 provincial capitals; even the remotest parts of the country were involved. Similarly, as a result of the agreement with SDC, which welcomed the initiative of the National Election Procedures Office to give special treatment to the population of the sierra and Amazon regions, certain elements of their culture, such as the language, dialects and images of the population, were incorporated in the campaign materials to encourage participation in the elections.

away from cities, and will also be important in ensuring that the wealth generated in the most remote areas of the country is properly distributed so as to improve the quality of life of the host communities and, especially, of rural women.

160. The deputy minister for tourism has promoted the establishment of technological innovation centres (CITE) for handicrafts and tourism, which pass on and use new technology to make craft products and tourist services more competitive. So far, eight such centres have been set up: CITE Textil Camélidos - Huancavelica (camelid textiles); CITE Camélidos Sudamericanos - Puno (South American camelids); CITE Joyería de Catacaos - Piura (jewellery); CITE Cerámica Chulucanas - Piura (ceramics); CITE Peletería Sicuani - Cusco (fleeces); CITE Joyería Koriwasi - Cajamarca (jewellery); CITE Turísticoartesanal Sipán - Lambayeque (tourism/handicrafts); and CITE Artesanía - Ucayali (handicrafts).

161. The technological innovation centres have been in operation since 2003, serving an average of 59,104 craftworkers and alpaca breeders a year. The Peruvian crafts sector is closely bound up with tourism and basically offers a way for the rural population to develop productive activities. It thus contributes to the elimination of all forms of discrimination by involving craftworkers - most of whom are women - in the economic activities of the country.

162. In this context, the technological innovation centres offer, with no distinction as to sex or race, a range of activities that promote craftwork and tourist services, within a framework of comprehensive training, technological innovation and transfer, and export growth and diversification. These activities have made it possible to nurture competitiveness, address the difficulties of accessing international markets, overcome the shortage of high-quality designs, improve the quality of commonly used inputs and materials, and coordinate supply and demand while increasing competitiveness and raising living standards for craftworkers.

163. It should also be mentioned that in the past year, thanks to the technological innovation centres, craftworkers' monthly per capita income has risen to 677.3 nuevos soles; 82.5 per cent of craftworkers have received training, creating 5.8 new products on average; an average of 4.2 craftworkers have benefited from the training provided to one craftworker; and 28.9 per cent of the craftworkers in the centres exported, on average, goods to the value of 1,723 nuevos soles.

164. The tourist sector has implemented a national strategic plan for tourism, which is expected to set Peru on the road to greater economic competitiveness, greater stability and sustainable development in an accessible country with good communications, thereby improving inhabitants' quality of life and helping ensure equality of opportunity. At the same time, the programme for the development of community-based rural tourism is designed to benefit disadvantaged areas by improving welfare and quality of life there and thus helping ensure that inhabitants enjoy equal opportunities.

165. Meanwhile, the Ministry of Labour and Employment, in conjunction with the Cooperation for Social Development Fund, is running a programme called "A trabajar rural" (Working in the countryside), which was set up in October 2001 in the district of Limatambo, Cusco.

166. The Cooperation for Social Development Fund is responsible for implementing this programme in rural areas. The work consists of promoting temporary jobs lasting about six months for men and women living in very poor villages. They perform work designed to re-establish, maintain and develop the social infrastructure for the good of the community.

167. Since 2004, the “Working in the countryside” programme has been one of the Fund’s investment lines, under the item “Social infrastructure”. Technically, its name is the “Social Production Development Project, Rural Areas”.

168. The programme is active in the following areas: (a) education (construction, restoration and renovation of classrooms, with sanitation facilities); (b) health (construction and renovation of health units and centres, with basic equipment); (c) water (drinking water systems with public, communal or individual outlets); (d) drains (construction or renovation of sanitation systems and latrines); (e) highways (paths and bridges for vehicles, suspension bridges for pedestrians, roads, footpaths); (f) simple infrastructure (rope bridges (*huaros*), cable ferries, small river ports, footpaths and bridle paths); (g) small irrigation systems; (h) communal buildings and tourist, archaeological, agricultural, environmental and aquatic infrastructure.

169. All this helps to meet the basic needs of people living in poverty and improve their quality of life.

2. Right to housing

170. Significant progress has been made with regard to the right to housing, in both urban and rural areas. The percentage of the population living in housing without access to basic services was reduced between 1993 and 2007, as shown by the table below:

Percentage of the population without access to basic services, 1993-2007

	Total			Urban			Rural		
	1993	2007	Reduction	1993	2007	Reduction	1993	2007	Reduction
No water	40	23	17	18	13	5	93	56	37
No drainage/ latrines	36	17	19	20	9	11	75	43	32
No electricity	42	24	18	20	9	11	92	70	22

Source: INEI, national population and housing censuses, 1993 and 2007.

171. Since 2002, the Ministry of Housing, Construction and Sanitation has contributed to the improvements in these figures by establishing the Techo Propio (“Own roof”) and Techo Propio Deuda Cero (“Own roof, zero debt”) programmes to enable less well-off people to buy a home with all basic services (electricity, water and drainage). The aim is to promote, facilitate and establish appropriate and transparent mechanisms to give ordinary people access to decent housing according to their financial means. The programme also aims to encourage the private sector to play a full part in the construction of mass social housing.

172. As regards the basic provision of drinking water, the rural element of the “Water for all” programme is designed to improve living conditions for Peru’s rural population. Currently, over 3.3 million people living in rural areas have no access to drinking water and 6.2 million have no adequate system to dispose of human waste and sewage. The programme plans to invest US\$ 80 million over a period of six years in the renovation and expansion of over 1,000 water and sanitation systems and the construction of 173 new ones, for the benefit of 810,000 people. There are currently 506 towns and 25 cities benefiting from the programme.

173. A rural housing programme now under development will provide financial assistance on the basis of family groups, in which the head of household may also be a single parent of either sex. This programme will promote the construction of housing with the help of rural communities, in which women are known to be very active.

3. Right to public health, medical care, social security and social services

174. Since 2000, the Peruvian Government has been promoting and implementing social programmes to comprehensively address the needs of the poorest and most marginalized population groups in the country. Given the depth of poverty in Peru, and the budgetary restrictions facing the Government, the administration of investments in social spending is guided by considerations of equity and efficiency.

175. Accordingly, under the current strategy to combat poverty and social exclusion - which is aimed at reducing economic, social and cultural barriers to health services - the Government has taken steps to promote equity through its comprehensive health insurance scheme. To this end, it has taken action to identify, locate and determine membership of the indigenous groups of the Andean and Amazonian regions, thereby giving effect to their right to health. These groups are therefore guaranteed medical treatment under the comprehensive health insurance scheme.

176. It should be stressed that the strategic initiatives under the scheme are pursued with a view to creating equal opportunities and reducing inequities in access to and the use of resources and in the exercise of citizenship in health matters.

177. In order to improve, in particular, the medical care received by indigenous people, health services under the comprehensive health insurance scheme have been expanded for scattered and excluded groups in the Andean highlands and Amazon region, the victims of social violence, community health workers, forcibly sterilized women and victims of the political strife that took place between 1980 and 2000.⁸⁸ The Ministry of Health, in coordination with the regional governments, is responsible for determining these groups' entitlement to comprehensive treatment.⁸⁹

178. On the question of forced sterilization, another issue of concern to the Committee,⁹⁰ one case in particular may be highlighted: that of Ms. María Mamérita Mestanza Chávez, who was surgically sterilized and died as a result of the operation on 15 April 1998. The case was reported

⁸⁸ Supreme Decree No. 006-2006-SA (21 March 2006).

⁸⁹ Ministerial Decision No. 591-2006/MINSA (23 June 2006).

⁹⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add. 69).

to the Inter-American Commission on Human Rights in June 1999. Peru admitted responsibility for the violation of Ms. Mestanza's rights to life, personal integrity and equality before the law, and signed a friendly settlement agreement on 10 October 2003.⁹¹

179. Notwithstanding this precedent, the quality of sexual and reproductive health care for women has been improved, especially for women in rural areas, where the majority of women from ethnic groups live. The Ministry of Health is ensuring that health facilities are culturally adapted for dealing with maternal health; delivery rooms, for example, have been adapted to cater for traditional birth techniques such as upright births. For this purpose, a protocol for culturally appropriate upright births⁹² was issued and health staff were trained.

180. Giving birth in a health facility has become more common in rural areas thanks to the Casas de Espera (homes for expectant mothers),⁹³ the Childbirth Plan⁹⁴ and Radar Comunitario (Community Watch).⁹⁵ In 2007, the ministry reported that there were 390 Casas de Espera for pregnant women in rural areas far from health facilities, who were able to stay near such facilities while waiting to give birth.

4. Right to education

181. The Peruvian Government has taken a range of measures to ensure that integration is based on equality and an appreciation and acceptance of differences, in order to avoid exclusion on the grounds of sex, racial or ethnic origin, religion or belief, disability, age, or sexual or other orientation that might impede the exercise of a person's rights.

182. The Government has introduced literacy policies that take an intercultural approach. In 2007, the National Literacy Programme reached 660,000 illiterates, of whom 79 per cent were women, in 748 districts in every region of the country.

⁹¹ Peru undertook to carry out a thorough investigation into the case and to punish those responsible (applying both administrative and criminal sanctions), to pay compensation to the family and to provide a number of health, educational and social benefits, as well as to amend its legislation and public policies on reproductive health and family planning.

⁹² Protocol No. 033-MIMSA/DGSP-V.O1, of 2 August 2005.

⁹³ The Casas de Espera in the most remote areas are equipped to provide temporary accommodation for pregnant women or women who have just given birth who have problems accessing health services. The homes provide quick access to a health facility able to handle or provide timely assistance in any obstetric emergency, and have been an important element in the strategy to reduce maternal deaths.

⁹⁴ The Childbirth Plan seeks to mobilize and organize families and communities so that they take the pregnant woman, or the new mother and her baby, to the health facility.

⁹⁵ The Community Watch scheme is a powerful tool for locating and monitoring pregnant women and new mothers. When used properly and responsibly, it is a valuable aid in efforts to reduce maternal mortality.

183. The goal of the programme is to reach 2.5 million illiterates by 2011 and to set up some 200,000 literacy groups, with an emphasis on reaching women living in extreme poverty in rural areas. Achieving this goal would eradicate illiteracy in the country, so that all illiterates would learn to read and do simple arithmetic.

184. In view of the subject of this report, it should be emphasized that one of the basic policies and strategies of the literacy programme is to respect students' social and linguistic background. That is, students with one predominant native language will first be taught to read and write in that language, and then in Spanish. Bilingual students will be able to choose the language they wish to read and write.

185. The General Directorate of Intercultural, Bilingual and Rural Education, of the Ministry of Education, has been producing a radio programme called "La escuela del aire" ("On-air school") since 2003. The programme is broadcast in 17 regions on national radio and 24 local stations, and is aimed at educators in remote rural areas. Its goal is to improve their skills in educating and stimulating young children, and to encourage pupils, teachers and the community to join in the intercultural dialogue.

186. The results of the ongoing national household survey for the first quarter of 2007 show that the school attendance rate for 3- to 5-year-olds in rural areas rose to 4.6 per cent for boys and 3.0 per cent for girls.⁹⁶ As compared with the rate in the same quarter of the previous year, school attendance by boys rose by 2.2 per cent, with no change in the rate for girls.

187. As for primary school attendance in the same quarter by children between 6 and 11 years of age in rural areas, the attendance rate for girls, at 16.7 per cent, was slightly higher than that for boys (15.8 per cent).⁹⁷ As compared with the same quarter in 2006, the attendance rate for boys in rural areas in 2007 increased by 11 per cent while that for girls rose by 8.9 per cent.

5. Right of access to any place or service intended for use by the general public

188. The National Institute for the Defence of Competition and Protection of Intellectual Property (INDECOPI) gives users effective means to defend themselves against the discriminatory practices of economic actors offering goods and services in the marketplace. Commercial practices that discriminate against consumers are punished under the Consumer Protection Act, and the victim has easy access to disciplinary proceedings before the Commission for Consumer Protection.

189. Notwithstanding this, INDECOPI offers a citizens' advice service to which people suffering from discrimination can submit oral complaints and receive advice on the inappropriate administrative steps to be taken vis-à-vis the Commission for Consumer Protection.

⁹⁶ INEI, *Estadísticas de género*, No. 2, June 2007, p. 4.

⁹⁷ *Ibid.*, p. 5.

190. INDECOPI has opened administrative proceedings for discrimination in 14 cases since 2005.⁹⁸ Complaints against the following firms or organizations were upheld: Macmillan Publishers, Palestium, Mamá Batata, Iberia, Lan Perú, Guisella Tours, Café del Mar, P&G Negocios, Banco de Crédito, Inversiones Postin, Federación Deportiva de Natación, Colegio Sagrada Familia, Autoservicio Circolo and Viajes Falabella. Nine of these have appealed the judgement in an effort to avoid paying fines of up to 20,000 nuevos soles.

VI. LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLE 6 OF THE CONVENTION

191. The Ministry of Justice supports and runs the Government's free legal aid programme (ALEGRA), which was set up to publicize the rights of the individual and provide information on how to exercise them and where to defend them if they are threatened or violated. The programme provides free legal assistance for the whole community and, more specifically, for citizens with few financial resources. Information on the programme is available in Spanish, Quechua and English on the website of the Ministry of Justice.

192. The ALEGRA programme seeks to strengthen the services provided by the public defence system,⁹⁹ the people's legal advice centres¹⁰⁰ and the extrajudicial conciliation centres of the Ministry of Justice.¹⁰¹ There are also free legal advice hotlines on which specialized lawyers from the Ministry of Justice offer advice and guidance on individuals' rights and on how to exercise and defend those rights.

193. Between 2004 and February 2008, 20 ALEGRA centres were opened around the country. Each provides public defence, legal advice and extrajudicial conciliation services. A further seven centres are planned to be opened in 2008.

⁹⁸ Website of the newspaper *El Comercio*, 12 October 2008 <http://www.elcomercio.com.pe/edicionimpresa/Html/2008-10-12/sentencias-tres-casos-marcarian-precedentes-sobre-discriminacion.html>).

⁹⁹ These services are provided by the public defender, who can provide legal assistance in police stations and defend persons who are to be investigated as well as those already under investigation by the police or prosecution service. He or she is also authorized to defend, free of charge, the accused in criminal courts.

¹⁰⁰ The work of the ALEGRA people's legal advice centres is to provide information, offer legal advice in the areas of administrative, employment and family law, provide legal assistance and representation in civil, employment-related and administrative matters, and file criminal complaints.

¹⁰¹ These centres are responsible for encouraging reconciliation in cases involving, inter alia, civil or family matters or minor offences, using alternative dispute-settlement methods.

**VII. LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER
MEASURES WHICH GIVE EFFECT TO THE PROVISIONS
OF ARTICLE 7 OF THE CONVENTION**

**A. Action taken by the National Institute for the Development of the
Andean, Amazonian and Afro-Peruvian Peoples to strengthen
a culture of non-discrimination**

194. The action taken by the National Institute for the Development of the Andean, Amazonian and Afro-Peruvian Peoples (INDEPA) includes training and awareness-raising activities for officials, government employees, managers and leaders working on national and international standards, agreements, conferences and conventions for people of African descent, with a view to guaranteeing unconditional respect for their rights and promoting a fair and just society. This institution is decentralized, and includes members of regional and municipal councils as well as other elected and appointed officials.

195. Other training activities deal with identity, self-esteem and citizenship, political participation and representation, leadership, governance and participation in decision-making, crop improvements, pest control, loans, and national and international markets.

196. INDEPA has also begun to work more closely with universities and schools in order to involve young people in the fight against racism and discrimination, providing opportunities for training, awareness-raising and discussion of the subject.

197. The Institute has cooperated with the Directorate of Bilingual Intercultural Education of the Ministry of Education in pressing for the introduction of African content in a revised curriculum that would cover the cultural contribution of people of African descent in Peru.

198. The establishment of Afro-Peruvian working groups was one of the most notable activities in the period 2003-2006. They were originally intended to be discussion forums, but basically put forward proposals to help people of African descent at the national, regional and local levels, collecting the requests and suggestions of communities with an African presence with a view to definitively eradicating racism and discrimination.

199. In order to improve the standard of living and quality of life of communities that include people of African descent, INDEPA is working with other State bodies to coordinate studies for projects which, if viable, will be central to the development of Afro-Peruvians in rural areas, who are mainly engaged in agriculture.

200. In 2008, INDEPA, as the body responsible for supervising policies and proposals to help people of African descent, considered draft laws on these issues, and argued that people of African descent should be involved in work on such legislative proposals, which promote efforts to combat discrimination and racism.

201. As far as culture is concerned, there is a constant exchange with Afro-Peruvian cultural organizations and civil society with a view to upholding traditions by means of various Afro-Peruvian cultural events and interaction with international groups and organizations. In

short, one of the main objectives of INDEPA is to significantly reduce practices and manifestations of discrimination and racism and to move towards a fair, tolerant and inclusive society.

B. Action taken by the Ministry of Education to strengthen a culture of non-discrimination

202. Basic education is organized into standard and alternative basic education. Standard basic education comprises early, primary and secondary education, and intercultural education is a cross-cutting element of it.

203. Bilingual intercultural education is also part of standard basic education. It takes into account the right of indigenous peoples and rural communities to be educated in their own language and culture, that is, to study their language and learn in their language, while having Spanish as their second language. In this way, they receive a cultural and linguistic education that is sensitive to their needs and expectations.

1. Curricular diversity

204. Curricular diversity means that courses can respond to diverse sociocultural contexts. Accordingly, educational institutions, educational networks, local education management units and regional education departments are able to incorporate local cultural knowledge and know-how in courses according to the sociocultural and linguistic context. The Directorate of Bilingual Intercultural Education is taking steps to develop a joint approach to the incorporation in the school curriculum of know-how, knowledge, technology, art, production processes and social values.

2. Training and skills development

205. The need for teachers with the training and skills necessary for dealing with bilingual children has led universities and teacher training institutes to offer courses on bilingual intercultural education. On the one hand, this is a sign of society's acceptance and appreciation of bilingual intercultural education; on the other, it shows that the educational provision for bilingual children is appropriate and relevant.

206. The Directorate of Bilingual Intercultural Education has been coordinating its work with the relevant bodies in the education sector to contribute to the initial and in-service training of teachers in the bilingual intercultural education system, as well as providing advice on training proposals at the regional and local levels through the local education management units and regional education departments. In addition, agreements have been signed with universities and teacher training colleges to provide teacher training under the National Continuous Training and Skills Programme managed by the General Directorate of Higher and Technological Education.

207. At the same time, pilot programmes are being developed with public teacher training colleges to provide initial teacher training in the bilingual intercultural education, through the proposed curriculum for training primary schoolteachers in this area.

3. Community involvement in education

208. Indigenous peoples and rural and Afro-Peruvian communities are involved in preparing proposals for teaching materials, training and classroom work. For example, round tables, meetings with students receiving bilingual intercultural education, support for bilingual intercultural teachers' conferences, forums, discussion groups and consultations allow them to become more closely involved in analysing the local and regional situation in education. They can then contribute to the development of educational projects of cultural and linguistic relevance and also discover the expectations, desires and needs of users of the education system that could enrich educational projects at the community, local, regional and national levels.¹⁰²

209. The Directorate of Bilingual Intercultural Education has also been taking steps to mobilize indigenous peoples and rural communities in support of cultural and linguistic rights by means of intercultural campaigns, especially those carried out in 2008 - proclaimed the International Year of Languages by the General Assembly - at the request of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

C. Action taken by the Public Defender's Office to strengthen a culture of non-discrimination

210. Within its spheres of competence, the Public Defender's Office has been addressing various issues related to discrimination. Its work has focused on dealing with and following up on complaints over acts of discrimination. Campaigns have also been carried out to raise public awareness of discrimination so that people know their rights and can identify cases of discrimination and report them to the relevant authorities.

211. The work of this institution is concentrated on handling individual cases, overseeing public bodies, running campaigns to promote and publicize rights, and overseeing public policy on discrimination.

212. In November 2006, the Public Defender's Office ran a national radio campaign against discrimination, paying special attention to public services, to enable people to identify cases of discrimination when they come across them, repudiate discriminatory practices and report them.

D. Action taken by the National Institute of Culture to strengthen a culture of non-discrimination

213. The National Institute of Culture reports that access to its facilities, including museums, is unrestricted and in no way discriminatory.

214. To promote access by the less well off to museums, on three days in 2008 (in May, July and September) entry to all the Institute's museums was free of charge.

¹⁰² Institutional, local, regional and national educational projects.

215. The Institute organizes exhibitions of traditional art in a strategic alliance with popular traditional artists. The top exhibition is the “Rurak Maki” exhibition and sale of traditional art, held in the National Museum for a fortnight in July each year, where indigenous peoples are particularly welcome to exhibit and sell their works.

**E. Action taken by the National Human Rights Council
to strengthen a culture of non-discrimination¹⁰³**

216. Since 2005, the Promotion and Dissemination Department of the National Human Rights Council has been publicizing the first National Human Rights Plan in local and regional workshops, giving priority to vulnerable population groups, including indigenous peoples. The workshops were attended by, on average, 150 persons - officials, government employees, members of the armed forces and members of civil society at large - and contribute in this way to a culture of non-discrimination in Peru.

F. Action taken by other institutions

1. Peruvian Institute of Radio and Television

217. The State media play an important role in disseminating information to combat racial prejudice. The Peruvian Institute of Radio and Television (IRTP), for example, aims to support State policy in educating the Peruvian people and offering moral and cultural guidance. Its main objective is to use the radio and television channels at its disposal to broadcast educational, cultural, informative and entertaining programmes that reach the entire population of the country.

218. The IRTP plays an important role in promoting national culture, identity and values in all their diversity. Its programmes are broadcast all over the country through 275 television stations and 37 radio stations, and also through the 101 television relay stations of the Ministry of Transport and Communications and the 1,230 relay stations of the Huascarán Plan. This coverage reaches a large number of vulnerable and marginalized ethnic groups who have no, or only limited, access to basic social services and information. Television and radio announcements allow these groups to learn about science and technology, art and universal culture, as well as health, human rights, the justice system, environmental protection and other subjects, thereby contributing to their education and development and to improving their quality of life. Likewise, information on microenterprise management, occupational techniques and agribusiness is broadcast, and this contributes to the creation of jobs and equal opportunities and to the country's socio-economic development.

¹⁰³ The Ministry of Justice houses the executive secretariat of the National Human Rights Council, a cross-sectoral government advisory body responsible for promotion, coordination and dissemination in the area of the protection and observance of basic human rights.

219. Peruvian National Television is the medium that does the most to promote and disseminate programmes with a high educational and cultural content, as well as broadcasting a wide range of television programmes. Likewise, National Radio, which accounts for 72 per cent of the radio grid, emphasizes ethical, social and cultural values within a framework of respect for political, religious, social, cultural, linguistic and ethnic pluralism, with no discrimination whatsoever. It thus contributes to the education and culture of all Peruvians and also to their development, thereby improving the quality of life of, in particular, vulnerable population groups in rural areas and on the outskirts of cities and promoting their social and cultural inclusion.
