



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Exceptional session

Summary record of the 582nd meeting

Held at Headquarters, New York, on Thursday, 15 August 2002, at 10 a.m.

Chairperson: Ms. Regazzoli (Vice-Chairperson)

later: Ms. Manalo (Vice-Chairperson)

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In the absence of the Chairperson, Ms. Regazzoli, Vice-Chairperson took the Chair.

The meeting was called to order at 10.10 a.m.

Consideration of reports by States parties under article 18 of the Convention (*continued*)

Fifth periodic report of Peru (CEDAW/C/PER/5, CEDAW/PSWG/2002/EXC/CRP.1/Add.9 and CEDAW/PSWG/2002/EXC/CRP.2/Add.8)

1. *At the invitation of the Chairperson, Mr. Balarezo and Ms. Loli Espinoza (Peru) took places at the Committee table.*

2. **Mr. Balarezo** (Peru) said that the Peruvian Government's priorities were poverty eradication, promotion of employment and respect for human rights; a gender perspective was essential to coordination with civil society and international organizations in pursuit of those goals.

3. **Ms. Loli Espinoza** (Peru) said that in March 2002 the Constitution had been amended to establish quotas for regional elections as from the November 2002 elections; previously set quotas had already increased the number of women municipal office-holders by 300 per cent. The quota for women candidates in congressional elections had been raised from 25 per cent to 30 per cent.

4. Peru had ratified the Optional Protocol to the Convention on 9 April 2001 and had conducted a campaign entitled "Same Rights, Same Opportunities" with the slogan "We are equal and we want the same opportunities"; 2,000 copies of the Convention had been distributed. The Rome Statute of the International Criminal Court, ratified on 9 October 2001, was also viewed as an important tool for the promotion of women's rights; the Truth and Verification Commission had found that, although the vast majority of its witnesses were women, their testimony tended to focus on crimes committed against others even though many of them had been raped during the internal conflict. On 4 October 2001, Peru had also ratified the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, the sale of children, child prostitution and the use of children in pornography.

5. The ongoing review of the Constitution, which would be completed during the current year, would

include special measures for affirmative action to eliminate all forms of discrimination. The minimum age for marriage had been set at 16 for both sexes; however, adolescent parents over age 14, of which there were many, could recognize their children, claim reimbursement of pregnancy- and childbirth-related costs and apply for child support.

6. The Educational Development of Rural Girls and Adolescents Act of 22 November 2001 was designed to correct the serious gap in access to education between urban and rural areas and between boys and girls. It prohibited discrimination against girl students on grounds of race, insufficient fluency in Spanish, or age; stipulated that they must be given timely information on the changes that take place during puberty and their effects on girls' development; and required teachers to give them personal attention and to treat them with respect. Sexual harassment of girl students by their teachers was a common problem; the Act mandated penalties for offenders. It also included economic incentives for teachers who promoted rural girls' education.

7. Some 2,000 couples were living apart but could not divorce or remarry; under Law No. 27495, adopted on 6 July 2002, a no-fault divorce could be granted after four years' de facto separation where children were involved and two years' separation in other cases, or where there was legally admissible evidence of incompatibility. Furthermore, women victims of domestic violence were often reluctant to testify against their partners and might be told that they were at fault because, for example, they had been late in coming home from work. Legislation mandating that complaints of domestic violence could no longer be settled out of court had been passed in February 2001; a similar bill that would repeal the conciliation provision of the Family Violence Protection Act was before Congress.

8. Congress had rejected several bills prohibiting sexual harassment; however, three new bills were currently under consideration and it was hoped that a combined instrument would be adopted in the near future. A recent directive created a mechanism for administrative sanctions against police officers who sexually harassed women and a Committee on the Human Rights of Policewomen had been created in January 2002. Legislation making health insurance mandatory for women in grass-roots social organizations and creating a national human rights

education plan had been adopted in February and May 2002, respectively.

9. In July 2002, the Ministry for the Advancement of Women and Human Development (PROMUDEH) had been transformed into a new Ministry of Women and Social Development with an increased budget and an expanded mandate which included coordination between the executive branch and women's organizations. The congressional Commission on Women and Human Development had been active since 1977 and the status of the Deputy Defense Counsel for Women's Rights in the Ombudsman's Office had been raised from specialized defence counsel to adjunct defence counsel in April 2002. Intersectoral and inter-institutional bodies included the Tripartite Population and Development Board, the National Domestic Violence and Sexual Abuse Board and the Afro-Peruvian Women's Board.

10. A 20-year governance agreement signed on 22 July 2002 included a policy for the promotion of equal opportunity, and the National Plan to Combat Violence against Women 2002-2007 ensured that every State body involved in dealing with violence had a special budget for combating violence against women. After some delay, the monitoring committee for the Plan had begun to function in July 2002.

11. The National Plan of Action for Children 2002-2010 had been adopted in April 2002; its objectives included combating violence against children, child labour and poverty; reducing the rates of infant mortality, malnutrition, drug use and sexually transmitted diseases, including human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS); promoting children's rights, education and social services; improving the Civil Registry and information systems on children; and preventing early pregnancy. The Plan included follow-up and monitoring mechanisms.

12. The National Plan for Older Persons 2002-2006, adopted in June 2002, contained special measures for urban and rural women. The Equal Opportunity Plan 2002-2005, promulgated in February 2000, had been found to be ineffective at mid-term and was currently being reviewed. Within the framework of International Women's Day, all the Ministers had signed a commitment to equal opportunity for women with specific goals and time periods for their achievement.

13. In April 2001, the National Programme against Domestic Violence and Sexual Abuse had been established under PROMUDEH with a budget of \$2.5 million; it had 37 offices throughout the country and a pilot programme would soon be launched in rural areas in cooperation with the Belgian Government. The Wawa Wasi childcare programme sponsored pre-schools for 37,000 children of working mothers; it currently operated under a grant from the Inter-American Development Bank (IDB) but would be fully funded by the Government as from 2003. The National Literacy Programme had been transferred from PROMUDEH to the Ministry of Education in February 2002; 44,200 women had benefited from the Programme between February and December 2002. Studies had been conducted on the situation of rural women and on gender and racial stereotypes in advertising and the media.

14. Budget constraints had made it impossible to conduct the 2002 population census. Consequently, there were not enough statistics on violence against women; development of a monitoring and follow-up mechanism was under discussion. Under the previous Government, many women had been surgically sterilized without their full consent and one woman had been raped by her doctor. Those cases had been reported to the Inter-American Commission on Human Rights. The current Government recognized that not enough had been done to address the issue and various out-of-court settlements were under negotiation; a policy-level response had not yet been agreed because the National Programme against Domestic Violence and Sexual Abuse had existed for only a year. In the rape case, the Government had voluntarily increased the amount of compensation awarded by the Inter-American Commission.

15. **Ms. Ferrer Gómez** said that the true test of Peru's legislative reform was whether the new laws were enforced. It was fortunate that women's issues would continue to be represented at ministry level, instead of being downgraded to a lower-ranking body. NGOs had played an important part in that decision.

16. According to the Peruvian Government, PROMUDEH was responsible for monitoring compliance with international human rights commitments, but it did not have an explicit mandate to ensure that the State promoted equal opportunities programmes. She wondered why such a mandate should be necessary: the law prohibiting discriminatory

acts had already enshrined the principle of equality in the Penal Code, and the various departments and entities of the State had committed themselves to the National Equal Opportunity Plan for Men and Women.

17. The report had explained that international human-rights treaties had constitutional force, while others, including the Convention on the Elimination of All Forms of Discrimination against Women, had the rank of national law. She asked whether the Convention could therefore be directly invoked by the courts.

18. She wished to know how the National Equal Opportunity Plan for Men and Women had been reviewed, what consultation had taken place, and whether the Plan would be reformulated in 2002.

19. Over 25 million Peruvians, including 13 million women, lived in poverty. The Government had developed a national poverty alleviation strategy, built around an Emergency Social Productive Project. She asked what specific employment measures that Project had established for women, especially in the Peruvian Amazon.

20. The Women, Health and Development Programme run in cooperation with the Pan-American Health Organization (PAHO) and the World Health Organization (WHO) had apparently been dismantled or was under threat. That was because the Ministry of Health believed that introducing a gender focus into health care would amount to selective treatment. She would welcome clarification of that reasoning.

21. **Ms. Shin** praised what had been done to reform legislation, but hoped that reform of the Constitution, which was still under way, would soon be completed. She welcomed the reduction of the minimum age for marriage to 16 for both sexes, but 16-year-olds were still immature physically, socially and psychologically. That situation had implications for health, education and parental responsibilities, and she urged the Peruvian Government to consider raising the age further to 18.

22. She had understood that PROMUDEH was the lead department for women's issues, but that there were also other entities promoting women's rights. She wondered how cooperation, integration and discussion between ministries was arranged, as the existing approach seemed rather piecemeal. She asked how all ministries would be able to implement gender

mainstreaming, and whether they operated gender budgeting, an essential prerequisite for equality programmes.

23. According to the delegation, no NGOs had taken part in drafting the report, because the Government considered itself to be solely responsible, and because NGOs had tended to be critical. However, the Committee specifically recommended that NGOs should take part in producing reports: their cooperation was necessary and their criticisms served to provide a more balanced view of how the Government was performing.

24. The Government's policies to combat domestic violence and sexual violence were praiseworthy, but she wondered whether there were policies in place to tackle online harassment, pornography and exploitation, particularly where minors were involved.

25. **Ms. Tavares da Silva** said that she had been particularly impressed by Peru's approach to improving the involvement of women in political life: its policy required a minimum of 30 per cent of both male and female candidates, rather than imposing quotas for women alone. That reflected the gender balance that was needed in a democracy.

26. The country's General Health Act allegedly did not allow for programmes with a gender perspective, because they would give some individuals priority in health care. Yet gender mainstreaming did not mean assigning priorities for care; it simply allowed account to be taken of women's specific needs and problems. Peru's high maternal mortality rate and unsatisfied demand for family-planning services showed that those needs and problems required attention.

27. The report had rightly emphasized domestic violence, but gave little information about other forms of violence against women, such as sexual violence. The Government had not supplied data on rape, incest or other forms of sexual abuse. Such crimes clearly occurred, as non-government sources, quoting official figures, had said that 44 per cent of crimes against liberty were incidents of rape, making it the third most common crime after assault and drug dealing. She asked what action was being taken against such crimes beyond what was prescribed by the Penal Code.

28. Since formal day care for children in the workplace had been abolished and a bill to restore it had failed to gather enough support, she wished to

know whether the Wawa Wasi programme adequately met the needs of working parents. The Government had said that it covered 37,000 children; she asked for that figure to be given as a percentage of children under school age. Since more and more women had jobs, day-care facilities contributed to equality.

29. **Ms. Gaspard**, noting that the General Election Charter Act required lists of congressional candidates to contain no fewer than 30 per cent men or women but that some districts had disregarded that requirement, asked whether failure to comply with such quotas led to elimination of candidate lists and ballots. The Government had not provided sex-disaggregated statistics for elected officials or people in senior decision-making positions and she hoped that future reports would remedy that shortcoming, to improve assessment of the situation of women in public life.

30. She had understood that prostitution existed in two forms, authorized and illegal. She asked for assurances that authorized prostitution did not exploit the women in authorized houses of assignment. The overall number of prostitutes in the country was high; she wished to know what steps were being taken to protect them, and not just their clients, from HIV/AIDS and other sexually transmitted diseases, and whether they were given help to cease prostitution if they so wished.

31. The report had not indicated how many women were in higher education, either as teachers or as students. She asked whether the Government supported women's and gender studies, as women's equality could not be pursued without trained staff.

32. **Ms. Goonesekere** said that Peru had not just enacted a wide range of new laws; it had adopted policies to ensure that they were not simply token steps. She did, however, see gaps in the legal framework. Firstly, information on sexual offences, including rape, was lacking. Secondly, she was concerned that sexual harassment appeared to be covered only by policy guidelines. She asked how those guidelines operated in employment, whether they were genuinely the only standards for employers (meaning that harassment was not considered a serious matter), or whether harassment also appeared in the Penal Code (meaning that it was a criminal offence). She asked whether the May 2000 law prohibiting discriminatory acts could be used to bring lawsuits for

sexual harassment on the grounds that they were a form of gender-based discrimination.

33. She wondered how the 1993 Domestic Violence Act related to criminal law in general. It appeared that the legal definition of rape depended on violence being used. She was concerned that, if the use of violence could not be proved, no charge of rape could be brought. Similarly, she wished to know whether the criminal law covered sexual violence that did not include penile penetration, and whether it covered incest. Those were all offences against the personal and physical security and human rights of women.

34. The criminal justice system had often failed to give women redress and protection because police investigations were flawed: physicians performing forensic examinations and investigation support staff were not gender-sensitive. She asked whether medical, legal and police training included gender awareness raising.

35. **Ms. Kapalata** commended the Peruvian Government for enacting new legislation to fulfil the terms of the Convention, but asked whether action had been taken to repeal legislation that perpetuated negative gender stereotypes and attitudes.

36. **Ms. Saiga** noted that the many national plans and programmes had varying durations and asked whether that had been a deliberate decision.

37. **Ms. Regazzoli**, speaking in her personal capacity, raised several issues. First, noting the lack of involvement of NGOs in the drafting of the report, she agreed that the Government was responsible for translating into action its commitments under international law, but emphasized that it also needed to act in a democratic manner and to involve civil society in decisions about the country. Second, she asked for an explanation of the distinction made between authorized prostitution and illegal prostitution, and of the contrast between the number of prostitutes prosecuted (3,000) and the number of pimps prosecuted (36).

38. **Ms. Loli Espinoza** (Peru) said that the periodic report reflected the situation prevailing at a time when civil-society institutions had enjoyed very little access to work done by the State. The situation had changed for the better and the current administration, inspired by the principle of transparency, was actively promoting the involvement of NGOs and grass-roots

organizations in public sector activities. Churches, schools and other social organizations throughout the territory of Peru were active in a range of programmes, including round tables and working groups on poverty eradication and other social issues.

39. The adoption of measures to ensure gender equity was a complex task because of the structure of the Peruvian Government, which handled issues along sectoral lines and according to thematic groups. In order to secure cross-cutting linkages between programmes and avoid duplication, a complete restructuring of the public apparatus was envisaged. It was hoped that the reform process would improve coordination between State sectors and thereby facilitate the implementation of measures promoting gender equity.

40. Through that restructuring process, new regulations for the planning and functioning of programmes for women were to be drawn up. PROMUDEH had been working to resolve a number of operational issues which had formerly distracted it from its normative and cross-cutting role; in future, the Government would seek to ensure that there was proper coordination between counterparts in other ministries. The pursuit of social development would be facilitated through improved coordination of measures on gender equity in all sectors, and it was expected that many opportunities to improve gender mainstreaming would be facilitated.

41. Although there had been some progress in legislation dealing with sex crimes, much remained to be done. The major advances had included the introduction of the concept of sexual violence as a form of domestic violence into the 1993 Domestic Violence Act, and the amendment of a number of discriminatory regulations and unconstitutional laws. For instance, a victim of rape was no longer faced with the possibility of being obliged to marry her rapist. Mandatory reconciliation of parties in the case of domestic violence had similarly been abolished. However, despite training programmes and attempts to modify the administration of justice, there remained an intractable core of judges who applied discriminatory rulings, a situation the Government was committed to resolving as a matter of priority.

42. There was no doubt that the explicit characterization of incest as a crime should be incorporated into Penal Code reforms, and drastic

improvements were required in data collection and analysis of statistics relating to sexual crimes. The national registry of statistics was being urged to provide disaggregated figures on such crimes in order to provide a more accurate basis for policy formulation.

43. In response to a query on the handling of cases of discrimination brought before the Deputy Defense Counsel for Women's Rights, she said that some difficulties had been detected in the investigation of claims by forensic specialists. Efforts were being made to improve monitoring of compliance with anti-discrimination provisions.

44. With regard to the abolition of the Women, Health and Development Programme, she said the process of sectoral restructuring was ongoing. Some of the criteria and adjustments in programmes were not always optimal, but concerted efforts were being made to maintain liaison with bodies within each sector, in order to ensure that activities which might previously have been conducted under the Programme would be subsumed elsewhere in the most effective manner.

45. All human rights treaties were considered part of domestic law and could therefore be directly applied and international treaties ranked immediately below the Constitution. However, in the process of constitutional reform, there was a move to include specific provisions to grant constitutional rank to human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women. There had been much debate on how best to clarify the application of treaties, the implementation of provisions and training of the judiciary.

46. Prostitution was subject to municipal regulation and activities of prostitutes who did not fall within such regulation were regarded as clandestine. Female sex workers were protected through preventive care available under the Programme to Control Sexually Transmitted Diseases and AIDS (PROCETTS), run by the Ministry of Health, and which included peer system and personal development components. In addition, the Government was discussing further ways of protecting sex workers from abuse on the part of the public and local authorities.

47. Poverty eradication and the goal of comprehensive social development was a fundamental task of the administration. The ministry responsible for labour had spearheaded a number of programmes,

particularly targeting women in rural areas, to encourage economic development. In due course the Committee would receive further details on progress made in the area of poverty eradication.

48. She further outlined efforts to provide indigenous women with greater access to resources, to increase the proportion of women in public life and to influence cultural attitudes with regard to underage childbearing and marriage. In addition she provided details on attempts to provide child care facilities for working women, the logistical difficulties encountered in that regard, and the decision to tackle the problem through local initiative.

49. *Ms. Manalo (Vice-Chairperson) took the Chair.*

50. **Ms. Corti** commended the delegation on the reforms carried out by the Peruvian Government and on the highly satisfactory evaluation of progress achieved. She was impressed by the establishment of the quota system for participation in public life and the inclusion of rural women in those developments. Although many of the remaining problems were bound to the availability of economic resources, a number of issues could be resolved without substantial economic investment.

51. She therefore requested additional information on measures adopted to protect sex workers, to educate the judiciary in the proper implementation of treaty obligations, to protect Peruvian women who emigrated as domestic workers, and to introduce health reform.

52. **Ms. Feng Cui** expressed difficulty in understanding how the National Elections Jury could take actions that, as described in the Government's responses to the Committee's inquiries, had resulted in significantly fewer than the quota of 30 per cent of candidates for the 2001 parliamentary elections being women, and then reject all pleas for reconsideration as being "unfounded".

53. **Ms. Schöpp-Schilling** commended the Government for its ratification of the Optional Protocol to the Convention, but also requested it to take the steps necessary to facilitate ratification of the amendment to article 20, paragraph 1, of the Convention.

54. **Ms. Espinoza** (Peru) pointed out that, quotas for women's participation in political activity initially had been instituted at the municipal level, and had met with considerable success there. Women's rates of

participation had become the highest in the poorest areas of the country. With regard to the actions of the National Elections Jury, however, she noted that judges' awareness of women's issues still needed improvement. Programmes to eradicate gender stereotyping in the judiciary and to promote awareness of women's rights had been set up in several rural and urban areas over the previous three years. Considerable resistance to such measures was being encountered from conservative sectors of society, but PROMUDEH had prepared a document listing the legal norms and international agreements dealing with gender equality that had been ratified by Peru, as a reference for judges to consider when rendering their opinions. It was hoped that the Government's next report would reflect progress stemming from those initial measures.

55. The question of abortion was difficult to address in Peru. Penalties for abortion had been significantly reduced in the latest Penal Code, sometimes to as little as a three-month suspended sentence, but that had apparently done little to satisfy the strongest supporters or opponents of abortion rights. In the health sector, while progress had been made in improving the quality of care provided in major hospitals to those suspected of having undergone clandestine abortions, recently proposed legislation would require health personnel to report cases of suspected abortion to the police. Some doctors were also refusing to perform abortions as a matter of conscience.

56. With regard to the matter of quotas for women's participation in political life, although the PROMUDEH appeal against the decision of the National Elections Jury had failed, the Ministry was continuing to work on the problem; the inclusion of more women in the various negotiating bodies would eventually enable more positive resolutions of situations of that kind. The incident in question should be viewed in the context of the fact that the quota had recently been raised to 30 per cent from 25 per cent, which the Jury had interpreted in a sexist manner as being "close enough", when in fact the 30 per cent quota represented a minimum requirement and not a vague target. Intense debate and negotiations were proceeding at all political levels within the country, and the opinion of an international body on the question could lend significant support to the enforcement of the quota.

57. The Peruvian Government provided health insurance for all children of school age. Additionally,

free health care was provided for girls who became pregnant and for their infants up to one year of age. The problems of migrant women were of great concern; migration as a whole would certainly decline as poverty indicators improved over the long term, but currently over one fifth of the population was living in the kind of extreme poverty that left little or no alternative to emigration for basic survival. Migrant women were vulnerable to exploitation and trafficking; the Government was dealing with the problems on a case-by-case basis, but was aware of the need to formulate an overall policy.

Articles 10 to 14

58. **Ms. González** expressed her strong concern about women's health issues in the context of the downgrading of important government programmes in that area, especially in view of rural women's limited access to health care in general. She noted the need to strengthen programmes aimed at preventing sexually transmitted diseases and HIV/AIDS, and to promote the use of condoms both within and outside marriage; the educational and informational measures involved should be aimed not simply at persons engaged in prostitution but at the population as a whole. She also expressed concern at the reports of surgical sterilization of women when men in similar circumstances had not been subject to that procedure. Finally, while agreeing on the need for further debate on the question of abortion, she noted that abortion should not be viewed as a method of family planning, and stressed the need to increase women's awareness of and access to contraceptive methods as well as to strengthen sex education for all citizens.

59. **Ms. Livingstone Raday** noted that current legislation on employment provided criminal penalties for discrimination in hiring but did not appear to cover discrimination in promotions, dismissals and wages, and asked on what basis cases of discrimination against women in those areas were handled. In light of the disadvantages to relying on criminal prohibitions as a basis for dealing with employment discrimination, such as the increased burden of proof required, she asked whether the Government was considering additional or wider-ranging legislation in that regard, in the form of an equal-opportunity employment act or an equal-wages act, which would allow women or women's NGOs to seek civil remedies in labour courts.

60. She welcomed the national plan for older adults, and its specific measures for older adult women, and asked for more details regarding the focus of those measures. She also asked whether the Deputy Defence Counsel for Women's Rights had considered advising women candidates to apply for consideration of the participation quotas under the Optional Protocol to the Convention. Finally, in regard to the problem of clandestine abortions and their contribution to the mortality rate for women, she asked whether emergency contraception could not be made a greater priority, especially in light of the reduced danger it presented for women.

61. *Ms. Regazzoli resumed the Chair.*

62. **Ms. Abaka** expressed concern regarding the requirement to report induced abortions to the police, since it significantly decreased the likelihood of women seeking necessary hospitalization as a result of such abortions. She welcomed equalization of the minimum marriage age for men and women, but remained concerned about provisions allowing marriage at age 16, deeming minors aged 14 and above to be capable of assuming certain legal responsibilities on the birth of a child, and allowing such minors legally to recognize their children once those minors had reached the age of 14. Such provisions appeared to encourage marriage among minors; the definite contribution of early marriage to already high rates of maternal mortality was a matter of the greatest concern, and she urged that the law should be reconsidered in that light. Finally, she expressed concern with regard to the situation of Arabic-speaking asylum-seekers in Peru, especially the women among them, following the terrorist attacks of 11 September 2001, and asked what measures the Government was taking to ensure the security of that vulnerable group.

63. **Ms. Achmad** asked what measures had been taken to address urban poverty, and what were the causes of such poverty in the context of urban development and its effect of displacing populations.

The meeting rose at 1 p.m.