

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment please email [Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca](mailto:Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca).

6 May 2014

### PER104855.E

Peru: Services available to children without parents, including those returning alone from abroad; state protection available to children abused by their parents (2012-April 2014)  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Services Available to Children Without Parents

A 2013 report produced by the UN Economic Commission for Latin America and the Caribbean (ECLAC) and UNICEF on protection mechanisms available for children in Latin America and the Caribbean indicates that Peru approved a new version of the *Child and Youth Code* through *Law 27337* in August 2000 to replace the one that had been approved in 1992 (UN Jan. 2013, 35). The new Code created a National System for Comprehensive Assistance to Children and Adolescents (Sistema Nacional de Atención Integral al Niño y Adolescente), which is responsible for [translation] "designing policies [and] coordinating plans and initiatives to benefit the child" (ibid.). This system was administered by the Ministry for the Promotion of Women and Human Development (Ministerio de Promoción de la Mujer y Desarrollo Humano, PROMUDEH) (ibid.). The report further indicates that PROMUDEH was replaced in 2002 by the Ministry for Women and Social Development (Ministerio de la Mujer y Desarrollo Social, MIMDES), which in turn was replaced in 2012 by the Ministry of Women and Vulnerable Population (Ministerio de la Mujer y Poblaciones Vulnerables, MIMP) (ibid., 36). Whenever the law refers to PROMUDEH, it signifies MIMDES, according to *Law 28330* (ibid.).

*Law 27337* indicates the following regarding the procedures to declare a child or adolescent as [translation by the Translation Bureau] "abandoned":

Article 248.- Cases.- The specialized judge may declare a child or adolescent abandoned when:

- a. He or she is a foundling;
- b. He or she has no permanent guardian who, according to the law, is personally responsible for his or her upbringing and education or, if he or she has a guardian, that guardian does not fulfill the corresponding obligations or duties; or the guardian lacks the moral or mental qualities required to ensure the correct upbringing;
- c. He or she is subjected to abuse by those who are responsible for his or her protection or is exposed to abuse from others;
- d. He or she has been handed over to a public or private social welfare institution by his or her parents and was not taken care of for six consecutive months, without justification, or if several periods of lack of care add up to more than six months;
- e. He or she has been left at a hospital or a similar institution with the obvious intent of abandoning him or her;

- f. He or she has been handed over by his or her parents or guardians to a public or private institution for adoption;
- g. He or she is subjected to exploitation in any way or is used for activities contrary to the law or inconsistent with public morals by his or her parents or guardians, when these activities happen in their presence;
- h. He or she has been handed over by his or her parents or guardians to another person for payment or without payment for purposes of being forced to do work not appropriate for his or her age; and
- i. He or she is in a state of complete neglect.

...

Article 249.- Judicial declaration of abandonment.- The specialized judge must issue a judicial resolution declaring the child or adolescent abandoned within no more than fifteen calendar days, subject to the approval of the attorney. In order to do so, the judge must order such proceedings as he/she deems appropriate.

Within five calendar days, he/she must send the entire file back to PROMUDEH. (Peru 2000)

The Law further indicates the protection measures as follows:

Article 243.- Protection.- PROMUDEH may take the following protection measures for any child or adolescent who needs them:

- a. Care in their own home, with education of the parents or guardians about how to fulfill their obligations and with the provision of temporary support and monitoring by the Protection Agency;
- b. Participation in an official or community protection program for educational, health and social care;
- c. Placement with a foster family or family placement;
- d. Comprehensive care at a special protection facility; and
- e. Making the child or teenager available for adoption, after the specialized judge certifies the State of Abandonment.

Article 244.- Obligation to inform.- The directors of public and private social and hospital care institutions are obliged to inform PROMUDEH about any children presumed to have been abandoned within no more than seventy-two hours after the fact.

Article 245.- Child protection investigation.- When PROMUDEH becomes aware, through a police report or a third-party referral, that a child or adolescent is in a situation that could cause him or her to be considered abandoned, the ministry will open a child protection investigation, with the knowledge of the Family Attorney, and will order the relevant provisional protection measures.

PROMUDEH may authorize specialized public or private institutions to carry out child protection investigations.

Article 246.- Reports.- In the resolution initiating the child protection investigation, PROMUDEH or the authorized institution will order the following procedures:

- a. Declaration by the child or adolescent;
- b. Psychological and physical examination to establish his or her age. This is carried out by the specialized medico-legal office, and results are communicated within two days;
- c. Pelmatoscopic exam [exam of the ridges of the soles of the feet] to establish the identity of the child. If the identity is known, the birth certificate and a copy of the psychological and physical examination are attached, and the pelmatoscopic report must be issued within two days. If the identity of the child or adolescent is not known, the pelmatoscopic report must be issued within ten calendar days, and must have an official copy of the psychological and physical examination attached;
- d. Report of the Multidisciplinary Team or whomever fulfills its function, to establish the factors that have led to the current situation of the child or adolescent; and
- e. Report of the Missing Persons Division, in order to determine whether a missing child or missing adolescent report was filed for the child or adolescent.

PROMUDEH or the authorized institutions must attach an official copy of the birth certificate or, in its absence, a copy of the psychological and physical examination or the pelmatoscopic report. The report must be issued within three days.

Article 247.- Proceedings.- Once the reports set out in the preceding article are issued, PROMUDEH or the authorized institution must ask the Police to look for and locate the parents or guardians. If they are not found, a notice must be published in the official newspaper and another high-circulation newspaper of the last known place of residence of the aforementioned person, if any is known, or, otherwise, in the place where the investigation is occurring. The publication shall be done on two separate days with one day in between. In addition, a notification must be broadcast on the official radio station in the same way.

If the parents or guardians of the child or adolescent cannot be found, PROMUDEH or the authorized institution must send the file of the child protection investigation back to the specialized judge once the investigation is completed, so that the judge can issue the declaration of abandonment. (ibid.)

In correspondence sent to the Research Directorate, a representative from Fundación ANAR, an NGO that promotes the rights of children and adolescents (Fundación ANAR n.d.), indicated that Peru does not have specific legislation that addresses minors returning to the country without their parents (ibid. 28 Apr. 2014). The representative also indicated that the Peruvian state [translation] "does not release detailed information" regarding the situation of children who arrive into the country from abroad without their parents, or about programs offered to them once they arrive (ibid.). The representative indicated, however, that *Law 30001* includes several provisions to provide assistance to returnees and their families, including minor children (ibid.). However, she pointed out that "no specific protection policies for returned migrants, including minors, have been established by the government" (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

*Law 30001* of 11 March 2013 titled *Law for the Economic and Social Reintegration of the Returned Migrant* (Ley de reinserción económica y social para el migrante retornado) indicates that returnees must file a request within 90 days before or after entering the country to access the economic benefits of the law (Peru 2013, Art. 2). Benefits outlined in the law are destined to Peruvians who stayed more than four uninterrupted years abroad; in the case of Peruvians being forcibly returned to the country, they must have spent no less than two years abroad (ibid.).

Without specifying the age of the returnee, *Law 30001* provides access to the contributory and semi-contributory health insurance, loans and scholarships to complete graduate studies, and psychological and social assistance, among other benefits (ibid., Art. 5). The Law also indicates that those who are in a condition of [translation] "socioeconomic vulnerability" can access social programs and subsidized health insurance (ibid., Art. 6). Information on the effectiveness of these programs could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## **2. State Protection Available to Abused Children**

The Fundación ANAR representative indicated that the rights of children and adolescents are protected by the Office of the Ombudsperson (Defensoría del Pueblo), the Municipal Office of the Ombudsperson for Children and Adolescents (Defensoría Municipal del Niño, Niña y Adolescente, DEMUNA), and Line 100, an emergency number available to victims of domestic violence and sexual abuse (28 Apr. 2014).

### **2.1 Office of the Ombudsperson**

The website of the Office of the Ombudsperson indicates that it can intervene in cases involving children and adolescents, including:

- mistreatment in educational establishments,
- delays in the investigation of domestic violence or sexual abuse,
- delays in the attention by the Medical Legal Institute (Instituto de Medicina Legal), and
- lack of protection measures for children or adolescents victims of domestic violence or sexual abuse (Peru n.d.).

Information on the effectiveness of the programs provided by the Office of the Ombudsperson could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### **2.2 DEMUNA**

The website of the Municipal District of Cerro Azul-Cañete indicates that the DEMUNA is part of the National System for Comprehensive Assistance to Children and Adolescents (Municipalidad Distrital de Cerro Azul-Cañete n.d.). The DEMUNA has the following responsibilities:

- to protect the rights of the children and adolescents,
- to provide orientation in [translation] "any type of case,"

- to support a complaint presented before authorities,
- to resolve conflicts through conciliation,
- to intercede before competent authorities,
- to follow up on cases and measures ruled by the judiciary, and
- to develop preventive activities (ibid.).

A report produced by the Office of the Ombudsperson that evaluated the DEMUNA indicates that it is located in 51 percent of the districts and 97 percent of the provinces, and its services are provided by provincial and district municipalities (Peru Oct. 2013, 7, 75). The website of the Municipal District of Cerro Azul-Cañete also indicates that any person, including children and adolescents, can ask for the intervention of the DEMUNA (Municipalidad Distrital de Cerro Azul-Cañete n.d.). The report of the Ombudsperson indicates that the DEMUNA provides its services for [translation] "free" (Peru Oct. 2013, 86).

An evaluation undertaken by the Office of the Ombudsperson of 48 DEMUNA offices in 9 regions (Apurímac, Ayacucho, Cusco, Huancavelica, Huánuco, Ica, Lima, Loreto and Madre de Dios) between September and October 2012 provided, among other results, the following:

- a [translation] "low" level of coordination as 18 DEMUNA offices (40 percent) have not provided the MIMP with an activity report; 14 (32 percent) have provided the report once; and 12 (28 percent) more than once;
- 52.7 percent of the personnel is hired on a casual basis, demonstrating "high volatility" in personnel offering professional services such as legal and psychological services;
- children and adolescents were the complainants in 24.29 percent of the cases received by the 48 DEMUNA offices in the first semester of 2012 (1,379 out of 5,652);
- 2 DEMUNA offices (4.9 percent) followed up on all the cases they received, 2 followed up on half of the cases received, 14 (34.1 percent) did not follow up for any cases, and 20 (48 percent) do not have information on whether or not they followed up on cases;
- "only" 30 DEMUNA offices (62.5 percent) have a sign advertising their presence in the area, and out of those, 18 (60 percent) have a "visible" sign;
- 14 DEMUNA offices (31.1 percent) do not have their own budget;
- 30 out of 46 DEMUNA offices (65 percent) refer to "institutional support networks" to address needs for which they do not provide support; however, in these cases, "they do not assume any direct responsibility" on the process of the case; and
- in 31 DEMUNA offices (67.4 percent), all personnel has been trained (ibid., 75-115).

### 2.3 Line 100

Sources report that the government has an emergency number, Line 100 (Línea 100), to assist victims of domestic violence and sexual abuse by providing psychological counselling and information (Fundación ANAR 28 Apr. 2014; Peru.com 27 Sept. 2012; *La República* 14 Nov. 2012). *La República*, a Lima-based newspaper, reports that the minister for Women and Vulnerable Populations indicated that between January and October 2012, 36,000 cases of domestic and sexual violence were reported through Line 100, and that most victims were aged between 36 and 45, 6 and 11, and 0 and 5 (ibid.). Noticias Terra, a media website with offices in several Latin American countries, reports that, according to the Ministry of Women and Vulnerable Populations, between January and July 2013, 21,390 women called Line 100 to report an abuse and that most victims were aged between 26 and 45 (Noticias Terra 5 Sept. 2013). Line 100 can also send a team of professionals to the home of the victim to provide assistance (ibid.; Peru.com 27 Sept. 2012). The team is called the Urgent Care Service (Servicio de Atención Urgente) and is composed of psychologists, lawyers and social workers (Deperu.com n.d.; Noticias Terra 5 Sept. 2013). Noticias Terra explains that the team puts priority on cases involving children (ibid.). *La República* quotes the minister for Women and Vulnerable Populations as saying that, between January and October 2012, 90 percent of all calls made to the line turned out to be false cases [translation] "that lead to unnecessary expenses in logistics and human resources, which could determine the difference between life and death" (14 Nov. 2012). On 5 September 2013, Noticias Terra reported that, according to Georgina Lazo, a specialist from the National Program Against Domestic and Sexual Violence (Programa Nacional Contra la Violencia Familiar y Sexual), 80 percent of all calls were false (5 Sept. 2013).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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## Additional Sources Consulted

**Oral sources:** Attempts to contact the following persons and organizations were unsuccessful: the Coalition for Humane Immigrant Rights of Los Angeles, Florida Immigrant Coalition, International Organization for Migration, Peru-Ministry of Health, Ministry of Labour.

Representatives from Centro Hispano, Programa Integral Nacional para el Bienestar Familiar de Perú, the Peruvian Ministry of Foreign Affairs, and the Tennessee Immigrant & Refugee Rights Coalition could not provide information.

Representatives from Casa de Maryland, the Embassy of Peru in Canada, and the Peruvian Ministry for Women and Vulnerable Populations, could not provide information within the time constraints of this Response.

**Internet sites, including:** Amnesty International; Canada – International Development Research Centre, International Trade and Development, Ministry of Foreign Affairs; ecoi.net; Factiva; Fédération internationale des ligues des droits de l'homme; Freedom House; Human Rights Watch; Publimetro.pe; Reporters sans frontières; United Nations – Refworld, UNWomen; United States – Agency for International Development, Department of State, Central Intelligence Agency.

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