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Peru: State protection for women victims of domestic violence (March 2005 - February 2007).

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Situation

The sources consulted by the Research Directorate indicate that domestic violence continues to be a significant problem in Peru (US 8 Mar. 2006, Sec. 5; Centro de la Mujer Peruana Flora Tristan Nov. 2006, 12, 19).

The National Police of Peru (Policia Nacional del Peru, PNP) recorded 76,255 complaints of domestic violence in 2005, including 33,552 from the Lima department (Peru n.d.c, 1). Nearly 91 percent of complaints are laid by women (ibid.). In 2005, nearly 66 percent of complaints of domestic violence involved physical violence, and 29 percent involved psychological violence (ibid., 4). Virginia Borra, Peru's Minister for the Promotion of Women and Social Development (Ministerio de la Mujer y Desarrollo Social, MIMDES), reportedly stated that only 30 percent of cases of domestic violence are reported (*La Republica* 21 Nov. 2006).

According to the Peruvian ombudsman's study of 216 cases of domestic violence, victims are typically women (89 percent) between 18 and 39 years of age (63 percent) (Peru 2005, 139), and 41 percent are married (ibid.).

According to the Peruvian Institute of Legal Medicine (Instituto de Medicina Legal), as reported in the annual report of the National Human Rights Coordinating Committee of Peru (Coordinadora Nacional de Derechos Humanos Peru, CNDH), only 40 percent of all rapes are reported (CNDH Apr. 2006, 59). A total of 60,000 rapes were allegedly committed in Peru in 2005, and in 60 percent of the cases, the alleged rapist was a member of the victim's family (ibid., 59).

A MIMDES lawyer stated that the law on domestic violence that came into force in 2003 has not been amended (Peru 7 Feb. 2007). A study by the Peruvian ombudsman on the protection offered by the penal system to women victims of domestic violence indicates that the crime of domestic violence is still not set out in the criminal code (Peru 2005, 135).

Some legislative changes concerning sexual crimes, particularly against

minors, have been made since 2004 (Peru 7 Feb. 2007). In addition, human trafficking and sexual violence are considered serious crimes when a family relationship or a relationship of authority exists between the trafficker and the victim (law No. 28950) (ibid.; Movimiento Manuela Ramos 8 Feb. 2007). A lawyer with the non-governmental organization Manuela Ramos Movement (Movimiento Manuela Ramos) stated that five legislative proposals for a law on fairness and equal opportunity put forth by various political groups are currently before the congress; that, in her opinion, is encouraging (ibid.).

Government measures to fight domestic violence

In January 2007, the Peruvian government submitted a report on the successes and failures of its policy to the United Nations Committee on the Elimination of Discrimination Against Women (Movimiento Manuela Ramos 31 Jan. 2007). The Research Directorate obtained a copy of a parallel report prepared by civil society, but could not obtain a copy of the government's report (Centro de la Mujer Peruana Flora Tristan Nov. 2006, 15). The civil society report is highly critical of MIMDES, arguing that it has not fulfilled its role and has failed to take aggressive action. The report notes the absence of a national campaign to raise awareness of domestic violence and suggests that the rural areas seem to have been neglected (ibid., 23).

According to MIMDES, numerous awareness and training activities have taken place in the past two years, including 6,689 activities between January and September 2006, involving more than 216,000 people (Peru n.d.a).

A document sent to the Research Directorate by the MIMDES lawyer states that the number of emergency centres for women (Centro Emergencia Mujer, CEM) increased from 42 in 2005 to 48 in 2006 (Peru n.d.a). From January to September 2006, the CEMs conducted 217,690 professional interventions with 22,194 individuals, compared with 240,789 interventions with 28,671 individuals in all 2005 (ibid.). The report also states that 3,301 training activities for the general public (workshops and conferences) were held between January and September 2006 (ibid.). Eighty-two planned training sessions helped more than 1,000 police officers improve their knowledge of the laws on domestic and sexual violence (ibid.). Another 79 training sessions on the same theme were offered to more than 1,000 legal system employees (ibid.).

In September 2006, the Peruvian congress set up a comprehensive clinic (lawyers, psychologists, educators, social workers) to meet the needs of victims of domestic or sexual violence (*La Republica* 27 Sept. 2006). No information on the usage rate of this service could be found among the sources consulted by the Research Directorate.

In addition, San Bartolomé hospital set up a specialized clinic for victims of domestic violence (*La Republica* 11 déc. 2006). Following an agreement with the national police, 100 women were referred to the clinic (ibid.).

According to the Manuela Ramos Movement lawyer, shelters for women victims of violence exist only because of initiatives of civil society, local governments or churches (8 Feb. 2007). The existence of such shelters is relatively unknown, partly for safety reasons (Movimiento Manuela Ramos 8 Feb. 2007). The Peruvian government does not run any shelters, aside from a few shelters for children, which are run by the National Family Welfare Institute (Instituto Nacional de Bienestar Familiar) (ibid.).

MIMDES operates a telephone support line that received 6,398 calls between January and December 2006, including 5,473 calls dealing with domestic violence (Peru n.d.b). The support line provides service to all of Peru and offers information and advice to victims of domestic and sexual violence and their families (ibid.). Ninety-two percent of callers were women, and nearly ninety percent of all calls came from Lima or Callao (ibid.).

Police and judicial response

Sources indicate that existing laws are not enforced effectively (Movimiento Manuela Ramos 8 Feb. 2007; Peru n.d.d). The Peruvian ombudsman's office (Defensoria del Pueblo) has indicated that few complaints go before a judge or end in convictions, and suggested that some legal measures have been ineffective (ibid.). A study by the ombudsman's office notes the low rate of complaints that actually result in sentences (6 percent of 186 cases studied), and indicates that the penal system has little deterrent effect on domestic violence (Peru 2005, 142).

The Manuela Ramos Movement lawyer stated that women report domestic violence despite family and social pressures, but that the efforts of the police and the legal system are insufficient (8 Feb. 2007). Victims frequently face a lack of cooperation from authorities because they are not believed or do not bear any marks, and they feel frustrated with their unsuccessful attempts to report the violence (Movimiento Manuela Ramos 8 Feb. 2007). According to the United States (US) Department of State, police officers and the judicial system are insensitive toward women victims of violence, and the ombudsman bemoaned the fact that police officers react indifferently to complaints by victims of domestic violence, despite a legal requirement that all police stations receive such complaints (US 8 Mar. 2007, Sec. 5). That requirement is set out in the Law on Protection from Domestic Violence (*Ley de Proteccion Frente a la Violencia Familiar*) (Peru 2005, 138).

The ombudsman's office has a women's rights section that, among other things, investigates cases of women being refused the following: the right to make a complaint at a police station, medical assistance from forensic doctors, and medical certificates in cases of domestic violence (Peru n.d.e).

Citing non-governmental organizations, the US Department of State indicates that "the majority of reported cases [of violence against women] did not result in formal charges" because the victims feared their aggressors or because of the cost of pursuing a complaint (8 Mar. 2006, Sec. 5; CNDH, 59). Other factors include legal delays, the lack of resources and shelters for victims, and ambiguities in the law (US 8 Mar. 2006, Sec. 5).

The Peruvian ombudsman also notes that the duration of the full legal process (from reporting the crime to sentencing) is often too long; 45 percent of the 186 cases studied took longer than 181 days, whereas the legal period set is approximately 90 days (Peru 2005, 140). A divorce proceeding can mean a period of four years during which the victim is seriously limited in exercising her rights as she waits for her marriage to be dissolved (Centro de la Mujer Peruana Flora Tristan Nov. 2006, 18). For underprivileged women, the lack of financial resources can mean a lack of an adequate legal defence, as the state lacks the resources to meet demand (ibid., 18).

The use of conciliation for domestic violence cases is not provided for in law

(Centro de la Mujer Peruana Flora Tristan Nov. 2006, 21; Peru 2005, 138), because the law behind the national police does not allow for recourse to conciliation in cases of criminal fault (ibid.). Nevertheless, conciliation continues to be widely used, partly because of the government's failure to raise awareness among legal officials (Centro de la Mujer Peruana Flora Tristan Nov. 2006, 21).

Non-governmental organizations

Among other things, the Flora Tristan Peruvian Women's Centre (Centro de la Mujer Peruana Flora Tristan) offers legal counsel to victims of domestic violence and training to key civil society and government stakeholders (n.d.). The Centre also encourages the development of public policies to meet women's needs and participates in the creation of campaigns to fight violence against women (Centro de la mujer peruana Flora Tristan n.d.).

The Manuela Ramos Movement also provides legal and psychological assistance (8 Feb. 2007). However, according to the organization's lawyer, their statistics only partially reflect reality, compared to MIMDES statistics, which more closely reflect the reality of domestic violence in Peru (Movimiento Manuela Ramos 8 Feb. 2007).

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 additional sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: The Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM) and the Coordinadora Nacional de Derechos Humanos did not respond to requests for information within the time constraints of this response.

Internet sites, including: Amnestia Internacional Peru, Comision Andina de Juristas, Coordinadora Nacional de Derechos Humanos, Embassy of Peru in Canada, Human Rights Watch (HRW), UNIFEM Region Andina.

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