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PER43413.FE

Peru: Situation of homosexuals and protection available to people who are ill-treated because of their sexual orientation (August 2003-March 2005)
Research Directorate, Immigration and Refugee Board, Ottawa

This Response contains sections of PER41826.E of 5 August 2003 and PER40216.E of 1 November 2002.

General situation

Country Reports 2004 indicated that, "[d]espite the absence of formal prohibitions, homosexuals faced extensive discrimination" in Peru (28 Feb. 2005). The Gay.com Website reported that "[h]omosexuality, particularly lesbianism, is still taboo in Peru's society" (Gay.com 17 Dec. 2003; see also *Seattle Times* 13 Dec. 2003).

In December 2003, Peru's Prime Minister, Beatriz Merino, was asked to resign "after rumors circulated that she is a lesbian" (*Seattle Times* 13 Dec. 2003). Beatriz Merino claimed that this was an attempt at damaging her reputation (Gay.com 17 Dec. 2003).

According to an article from the on-line magazine *The Gully*, 20 Peruvian organizations for lesbian, gay, bisexual and transgender (LGBT) rights seized the opportunity of the fifth World Social Forum in Porto Alegre, Brazil, to publish a manifesto announcing their intent to work together to fight for the respect of LGBT citizens' rights throughout Peru (31 Jan. 2005). The first national meeting of LGBT movements and activists (Primer Encuentro Nacional de Movimientos y Activistas TLGB) in Peru was held from 12 to 14 May 2005, marking the beginning of their collaborative efforts (*The Gully* 31 Jan. 2005). The manifesto was published [translation] "in a context of . . . hatred toward LGBT people" (ibid.).

An event was organized in a park in Lima on 14 February 2005 to promote [translation] "affective freedom" and non-discrimination of LGBTs; couples in attendance kissed in public (Raiz Diversidad Sexual 15 Feb. 2005; see also *Diario de Lima Gay* 19 Feb. 2005a). This event, which was the third of its kind, was a success, according to Raiz Diversidad (15 Feb. 2005).

The third LGBT pride parade was held in Lima on 3 July 2004 (Raiz Diversidad Sexual 2 Feb. 2005). According to Raiz Diversidad Sexual,

approximately 500 people participated, including members of the following groups: Lesbia Perú, Grupo de Lesbianas Feministas (GALF), Jamás la Amistad Dejará de Existir (JADE), Movimiento Homosexual de Lima (MHOL), Raiz Diversidad Sexual, Red Peruana TLGB, and Uniones Perú (ibid.). Organizations, such as Amnesty International, the Another World is Possible organizing committee (Coordinadora Otro Mundo es Posible), and the General Confederation of Workers in Peru (Confederacion General de Trabajadores del Perú), demonstrated their solidarity by participating in the march (ibid.). Approximately 1,000 people gathered in the Plaza Francia in downtown Lima afterwards (ibid.).

An article posted on the GayPeru.com Website reported that a second homosexual marriage had been performed by the Church of Everlasting Love (Iglesia Hermandad del Amor Eterno) in Trujillo on 13 November 2004; [translation] "for security reasons," photographs of the couple were altered and their names were not published (n.d.c). The International Gay and Lesbian Human Rights Commission (IGLHRC) also noted that a proposal for the civil union of same-sex couples was introduced in the Peruvian parliament (16 Sept. 2004). An article from the Red Peruana TLGB stated that LGBT organizations had not been consulted before this bill was presented to Congress (n.d.a).

Many non-governmental organizations for LGBT rights exist; some have Internet sites, such as DEMUS (<http://www.demus.org.pe>), a women's rights organization; MHOL (<http://mhol.tripod.com.pe/mhol/>); Raiz Diversidad Sexual (<http://www.galeon.com/raizdiversidad>); and a coalition of organizations called the Red Peruana TLGB (<http://grupoimpulsorglbt.galeon.com/>), which consists of 13 groups or associations that [translation] "fight against discrimination based on sexual orientation" (Red Peruana TLGB n.d.b).

The home pages for Gayperu.com and Deambiente.com offer links to chat rooms, post photographs of parties in nightclubs, and provide addresses for some nightclubs that provide surveillance in their parking lots and other security measures (GayPeru.com n.d.a). Arequipa has one nightclub and one viewing room for gay films (ibid. n.d.b).

A country guide published in London by GayTimes provided the following information on Peru:

. . . there is a surprisingly active gay scene centred in Lima. There are over 10 clubs and bars, 3 saunas and even 4 gay hotels. In 1997 Peru had its first gay parade and there are several LGBT organisations including the Homosexual Movement of Lima (MHOL), founded in 1983.

. . . Homosexual acts, in private and between consenting adults, are not illegal. Laws referring to "public morality" however are often used against gays and lesbians. The Constitution and numerous other pieces of legislation include anti-discrimination provisions, but none refer to sexual orientation specifically. Gays are banned from the armed forces and the police (GayTimes 2003).

Legal protection

April 2002 saw the formation of the Front for the Right to be Different (Frente por el Derecho a ser Diferente, FREDIF), a coalition of "seven lesbian, gay, bisexual and transgender non-governmental organizations" (IGLHRC 29 Apr. 2002). The goal of the FREDIF is to support "the inclusion of 'sexual orientation'

as a protected category against discrimination in the new Peruvian Constitution" (ibid.).

On 1 December 2004, the group Raiz Diversidad Sexual reported the inclusion of discrimination on the basis of sexual orientation as a cause for action under the code of constitutional procedure (*Codigo Procesal Constitucional*) (Raiz Diversidad Sexual 2 Feb. 2005; see also MHOL 1 Dec. 2004). The assistant ombudsman stated that this change indicates that the Peruvian government has recognized the right of citizens to be protected against discrimination based on sexual orientation, as guaranteed by the constitution (ibid.). The code (or Law No. 28237) can be consulted on-line in Spanish at <http://tc.gob.pe/Codigo_Procesal.html>.

Some 50 activists gathered on 7 June 2004 to discuss the amendment to the code—an amendment which they believe is the result of their political positioning and the work they have accomplished over the last few years (MHOL 9 June 2004). An MHOL article indicated that Law No. 28237 is the second major document in Latin America, after Ecuador's constitution, to recognize the right not to be discriminated against because of one's sexual orientation (ibid.).

The MHOL indicated in another article that the only element missing [translation] "to complete the protection of rights" for LGBTs is the adoption of a bill to prevent and eliminate discrimination on the basis of sexual orientation (*Ley Para Prevenir y Eliminar la Discriminacion por Orientación Sexual*) (1 Dec. 2004).

A member of the Peruvian Congress presented a bill to include non-discrimination of a person based on his or her sexual orientation in the criminal code and other laws (*Diario de Lima Gay* 12 Feb. 2005).

A support campaign for this bill expected to collect 50,000 signatures; groups from the Lambayeque region in the north, such as the Homosexual Movement of United Friends of Chiclayo (Movimiento Homosexual Amigos Unidos de Chiclayo, MAUCH), the Leonardino Homosexual Group (Grupo Homosexual Leonardino, GHL), and the Victoriano Homosexual Movement (Movimiento Homosexual Victoriano, MHOVI) had obtained 1,000 signatures in early May 2004 (MHOL 7 May 2004).

Sources indicated that a Peruvian constitutional court recently ordered the police to reinstate an officer who had lost his job because he had married a transsexual (*Diario de Lima Gay* 12 Feb. 2005; Canadian Press 10 Feb. 2005).

A couple of young men were asked to leave the Santa Isabel supermarket in Lima on 9 August 2004 (Raiz Diversidad Sexual 2 Feb. 2005; see also *Country Reports 2004* 28 Feb. 2005). The same happened to another young gay man two days later (Raiz Diversidad Sexual 2 Feb. 2005). Their cases are currently being examined by the Consumer Protection Institute (Instituto de Defensa del Consumidor, INDECOPI) (*Diario de Lima Gay* 12 Feb. 2005; Raiz Diversidad Sexual 2 Feb. 2005). If the INDECOPI's decision is in favour of the young men, it will be the first time that a case involving discrimination on the basis of sexual orientation will be won (ibid.).

According to the non-governmental organization Raiz Diversidad Sexual, determining the number of heinous crimes against members of the LGBT community is impossible because these crimes are often attributed to common

criminality, as was the case of a transsexual whose body was found burned on 26 November 2004 (2 Feb. 2005).

Homosexuals in the army

Agence France Presse (AFP) indicated on 11 November 2004 that Peru's constitutional court had overturned a law that banned homosexuals in the Peruvian armed forces from having sexual relations; under this law, some of them had been subject to expulsion or prison sentences. The court ruled that this provision was "completely discriminatory" and "unconstitutional" (AFP 11 Nov. 2004).

Raiz Diversidad Sexual reported that this law, the code of military justice (*Código de Justicia Militar*), was the [translation] "only Peruvian regulation that punished homosexual behaviour" (15 Nov. 2004). Peru's Minister of Defence, Roberto Chiabra, reacted by declaring that the judgment was proof of respect and that the armed forces must adjust accordingly (Raiz Diversidad Sexual 15 Nov. 2004).

Police treatment

On 18 June 2004, a gay and lesbian nightclub was raided by the Lima municipal police, accompanied by cameras from major television networks (Raiz Diversidad Sexual 2 Feb. 2005). Raiz Diversidad criticized the police for using violence and invading the privacy of those apprehended during the raid (*ibid.*). The police reportedly attacked and beat people who tried to avoid being filmed on camera (*ibid.*).

Contrary to last year, the Lima municipal police did not try to prevent a gathering of the LGBT community at Valentine's Day events on 14 February 2005 because at least four television stations were present (*Diario de Lima Gay* 19 Feb. 2005a). However, another article indicated that transsexual activists who are members of the Angel Azul association and who had participated in the Valentine's Day events had been threatened by municipal police officers (*ibid.* 19 Feb. 2005b).

No other information on the treatment of LGBTs by the police could be found among the sources consulted by the Research Directorate.

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.

References

Agence France Presse (AFP). 11 November 2004. "Peru Gives Green Light for Gays in Military to Have Sex."
<<http://www.terra.net.lb/wp/Articles/DesktopArticle.aspx?ArticleID=190846&ChannelId=49>> [Accessed 1 Mar. 2005]

The Canadian Press (CP). 10 February 2005. "Peru's Top Court Rules Cop Fired

for Marrying Transsexual Must Get Job Back." (MyTelus.com)
<http://www.mytelus.com/news/article.do?pageID=cp_oddties_home&articleID=1841651> (Google cache) [Accessed 1 Mar. 2005]

Country Reports on Human Rights Practices for 2004. 28 February 2005. "Peru." United States Department of State. Washington, D.C.
<<http://www.state.gov/g/drl/rls/hrrpt/2004/41771.htm>> [Accessed 28 Feb. 2005]

Diario de Lima Gay. 19 February 2005a. "Perú: Parejas GLBT demostraron que el amor no discrimina besándose en público para celebrar el Día de San Valentín." <<http://diariodelimagay.galeon.com/14febreroglb.htm>> [Accessed 28 Feb. 2005]

_____. 19 February 2005b. "Perú: Activistas trans fueron amenazadas por agentes de seguridad del municipio luego de participar en 'El Amor no Discrimina.'" <<http://diariodelimagay.galeon.com/nacfeb19.htm#1.->> [Accessed 28 Feb. 2005]

_____. 12 February 2005. "Noticias nacionales." <<http://archivodlg.galeon.com/nacfeb12.htm>> [Accessed 28 Feb. 2005]

Gay.com. 17 December 2003. "Peru Prime Minister Fired over Rumors." <<http://www.gay.com/news/article.html?2003/12/17/4>> [Accessed 17 Feb. 2005]

GayPeru.com. n.d.a. "Discotecas Lima." <<http://www.gayperu.com/guia/discos/lima.htm>> [Accessed 1 Mar. 2005]

_____. n.d.b. "En nuestra guía encuentras." <<http://www.gayperu.com/guia/>> [Accessed 1 Mar. 2005]

_____. n.d.c. "Segundo matrimonio gay en Trujillo." <<http://www.gayperu.com/informacion/informe ESPECIAL/>> [Accessed 1 Mar. 2005]

GayTimes [London]. 2003. "Peru." <<http://www.gaytimes.co.uk/gt/default.asp?topic=country>> [Accessed 30 July 2003]

The Gully. 31 January 2005. "'Libertad con Pan y Placer': Movimientos LTGB del Perú suscriben histórico manifiesto." <http://www.thegully.com/espanol/articulos/gay_mundo/050131_gays_lesbianas_peru.html> [Accessed 28 Feb. 2005]

International Gay and Lesbian Human Rights Commission (IGLHRC). 16 September 2004. "Support Civil Unions Proposal Now Under Attack By the Catholic Church." <<http://www.iglhrc.org/site/iglhrc/section.php?id=5&detail=521>> [Accessed 17 Feb. 2005]

_____. 29 April 2002. "Support Anti-Discrimination Measures in New Constitution." <<http://www.iglhrc.org/world/southamerica/Peru2002Apr.html>> [Accessed 28 Oct. 2002]

Movimiento Homosexual de Lima (MHOL). 1 December 2004. "Entra en vigencia el Código Procesal Constitucional." <<http://www.mhol.org/histnot.htm#29>> [Accessed 17 Feb. 2005]

_____. 9 June 2004. "Reunión informativa sobre el Nuevo Código Procesal Constitucional." <<http://www.mhol.org/histnot.htm#29>> [Accessed 1 Mar. 2005]

_____. 7 May 2004. "Por una Ley Antidiscriminatoria por Orientación Sexual, que ampare a la comunidad LGBT." <<http://www.mhol.org/histnot.htm#29>> [Accessed 1 Mar. 2005]

Raiz Diversidad Sexual. 15 February 2005. "Perú: Se realizó con éxito acto El Amor no Discrimina." <<http://peru.indymedia.org/news/2005/02/14068.php>> [Accessed 1 Mar. 2005]

_____. 2 February 2005. "Reporte anual de LGTB en Perú 2004." (Peru.indymedia.org) <<http://peru.indymedia.org/news/2005/02/13766.php>> (Google cache) [Accessed 16 Feb. 2005]

_____. 15 November 2004. "Las fuerzas militares tienen que adecuarse a los procesos de cambio declara el Ministro de Defensa General peruano." <http://www.ilga.org/news_results.asp?LanguageID=2&FileCategoryID=21&FileID=388&ZoneID=19> [Accessed 1 Mar. 2005]

Red Peruana TLGB. n.d.a. "Comunicado sobre las uniones civiles entre parejas del mismo sexo." <<http://grupoimpulsorglbt.galeon.com/index.html>> [Accessed 1 Mar. 2005]

_____. n.d.b. "Red Peruana TLGB." <<http://grupoimpulsorglbt.galeon.com/index.html>> [Accessed 1 Mar. 2005]

Seattle Times. 13 December 2003. "Lesbian Rumors Reportedly Spur Call for Peru's Leader to Quit." <http://seattletimes.nwsourc.com/html/nationworld/2001814067_wdig13.html> [Accessed 1 Mar. 2005]

Additional Sources Consulted

Oral sources: Lima's Homosexual Movement could not provide information within the time constraints for this Response.

Internet sites, including: Amnesty International (AI), *Diario de Lima Gay*, Freedom House, GayPeru.com, Human Rights Watch (HRW), International Lesbian and Gay Association (ILGA), International Gay and Lesbian Human Rights Commission (IGLHRC), Movimiento Homosexual de Lima (MHOL), Raiz Diversidad Sexual (Peru), Resource Centre of the Americas, Rex Wockner, World News Connection.

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