



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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3 March 2005

### PER43414.FE

Peru: State protection available to women who are victims of domestic violence  
(June 2003-February 2005)  
Research Directorate, Immigration and Refugee Board, Ottawa

This Response contains sections of PER41430.E of 2 June 2003.

### General situation

According to Freedom House, "[s]pousal abuse is perhaps the greatest problem facing women in Peru today, although recently the government has taken some steps to address the issue" (14 Sept. 2004). *Country Reports 2004* indicated that "violence against women, including . . . spousal abuse . . . was a chronic problem" (28 Feb. 2005, Sec. 5).

A lawyer from the Ministry of Women and Social Development (Ministerio de la Mujer y Desarrollo Social, MIMDES) stated that some progress has been made in the domestic violence situation, but that there is still [translation] "much to be done," partly because the problem is not perceived as [translation] "an issue of public interest that affects fundamental rights," and because victims often do not report incidents of violence out of fear or lack of information (Peru 22 Feb. 2005; see also *Country Reports 2004* 28 Feb. 2005, Sec. 5).

A lawyer from the Manuela Ramos Movement, a non-governmental organization (NGO), stated that, in general, significant progress has been made, but that there is still a long road ahead (*todavía hay un camino muy grande*) (Movimiento Manuela Ramos 24 Feb. 2005). According to this lawyer, the number of reported domestic violence cases has increased, which is worrisome but also encouraging, because it indicates that women are exercising their rights and reporting incidents of violence (ibid.).

The lawyer pointed out that there is still a gap between attitudes and the institutional and legal measures in place (ibid.). Changing behaviour and attitudes (*proceso de internalización*) requires more time, but people seem to have a general awareness that cases of domestic violence should be reported (ibid.).

A study conducted in 2003 by the Flora Tristan Centre for Peruvian Women (Centro de la Mujer Peruana Flora Tristan), another NGO, concluded that seven out of 10 women in Peru experience domestic or sexual violence at least once in

their lifetime (Cimac Noticias 20 Jan. 2005).

The Manuela Ramos Movement reported that, according to the Public Ministry's (Ministerio Público) Forensics Institute, 78,441 forensic exams were conducted in cases of domestic violence in 2004, which represents an average of 215 cases of domestic violence per day (Movimiento Manuela Ramos n.d.a).

Another study indicated that more than 56 per cent of the 297 cases of extreme violence against women recorded between February 2003 and March 2004 by the Flora Tristan Centre for Peruvian Women resulted in the death of the victim (Centro de la Mujer Peruana Flora Tristan 24 Nov. 2004, 8). The study indicated that the [translation] "most alarming" discovery was that most of the perpetrators were part of the victims' social circle of close family and friends (ibid.).

### **Process for filing complaints**

In order to file a domestic violence complaint, which can be oral or written, the person must show her or his identity card at a police station or at an office of the Provincial Family Prosecutor (Fiscal Provincial de Familia) (Peru n.d.g). The person does not have to be examined before filing the complaint, but she or he must undergo medical and psychological testing sometime during the process (ibid.) Visible injuries are not necessary to file a complaint (ibid.). Either the victim or a family member can file the complaint (ibid.).

### **Law in effect**

A law on domestic violence was adopted in 1993 (Ley No. 26260, Ley de Protección frente a la Violencia Familiar) (Centro Flora Tristan Sept. 2002, 4).

The lawyer from MIMDES stated that an amendment made to Law No. 26260 in May 2003 is now in effect, and that this law no longer requires reconciliation between the victim and the aggressor [translation] "because this mechanism was not effective in resolving domestic violence conflicts" (Peru 22 Feb. 2005). The lawyer from the Manuela Ramos Movement noted that the amendments made to the domestic violence law in May 2003 [translation] "improved the law" (Movimiento Manuela Ramos 24 Feb. 2005). According to the Manuela Ramos Movement and other NGOs, the law had to be amended because offences were not sufficiently punished and the provision for reconciliation (*conciliación*) had to be reviewed, as women were being [translation] "victimized" throughout the process (ibid.).

The amended law requires that a police report be filed within five days following the incident (*Country Reports 2004* 28 Feb. 2005, Sec. 5; Movimiento Manuela Ramos 24 Feb. 2005), a provision which police officers have complained about, claiming that they need more time to produce an adequate report (ibid. 1 Mar. 2005). Medical exams for victims are now free and can be performed by any health professional (Movimiento Manuela Ramos 24 Feb. 2005; *Country Reports 2004* 28 Feb. 2005, Sec. 5).

According to the Manuela Ramos Movement's lawyer, this is an example of the gap between institutional requirements and reality, because many health professionals do not act in accordance with the law and refuse to perform this type of exam to avoid being involved in legal proceedings (Movimiento Manuela

Ramos 24 Feb. 2005).

Domestic violence crimes are categorized as follows: if a doctor deems the women's disability time to be less than ten days, the violent act is considered to be a "misdemeanor" (*falta*) under the Criminal Code (Centro de la Mujer Peruana Flora Tristan Sept. 2002). If the disability time is deemed to be more than ten days, it is then considered a "felony" (*delito*), and the matter will be brought before a criminal judge (*ibid.*). HRW reports that "the vast majority of domestic violence cases are classified as misdemeanors" and end up before a justice of the peace, which has an effect on the protection and redress available to the victim (HRW 31 Mar. 2000b). Domestic violence misdemeanor offences are punishable by a maximum of 20 to 30 days community service and a fine (*ibid.*).

The lawyer from the Manuela Ramos Movement indicated that criminal proceedings take place in both cases: "felonies" (*delitos*) are brought before a prosecutor, while "misdemeanors" (*faltas*) are brought before justices of the peace by police officers (Movimiento Manuela Ramos 1 Mar. 2005). The punishments that can be imposed vary according to the category of the offence (*ibid.*).

*Country Reports 2004* also noted that "the domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse . . . from returning to the family's home" (28 Feb. 2005, Sec. 5). The law also "authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence" (*Country Reports 2004* 28 Feb. 2005, Sec. 5). In fact, a summary prepared by the Manuela Ramos Movement of the amendments to the domestic violence law indicated that a prosecutor who receives a domestic violence complaint must provide the required [translation] "immediate protection" (Movimiento Manuela Ramos n.d.b)

The regulations for Law No. 28236 of 7 May 2004 on the creation of temporary shelters (Ley que crea Hogares de Refugio Temporal) have not yet been adopted by parliament (Peru 22 Feb. 2005). This law [translation] "establishes the responsibility of the local authorities to promote shelters" (*ibid.*).

### **Government measures against domestic violence**

In April 2001, the Peruvian government created the High Level Multi-Sectorial Commission (Comisión Multisectorial de Alto Nivel) to establish a five-year national plan (2002-2007) which would address the issue of violence against women (Peru n.d.b). The Commission is presided over by the Ministry of Women and Human Development and includes the representatives of the Ministers of Education, Health, Justice and the Interior (Ministros de Educacion, de Salud, de Justicia y del Interior) (*ibid.*). This plan, the first of its kind, is the result of a policy that has recognized the great risks, damages and disadvantages that domestic violence has on more than half the population (*ibid.*).

The lawyer from the Manuela Ramos Movement stated that some of the MIMDES public policy directions raise concern; she noted that the government is promoting a certain vision of the family, to the detriment of women's rights, which makes it more difficult to convey the message that issues specifically affecting women must be addressed and resolved (24 Feb. 2005).

During a visit with a woman hospitalized for injuries caused by domestic violence, the Minister of Women and Social Development, Ana Maria Romera-Lozada, stated that the government would soon begin a [translation] "zero tolerance" campaign (Peru 16 Feb. 2005). She added that 30 violent attacks against women occurred every day and that this situation [translation] "will not be tolerated" (*ibid.*).

### **Emergency shelters for women (Centros Emergencia Mujer)**

The government continues to offer assistance to domestic violence victims through emergency shelters for women (Centros Emergencia Mujer, CEM) (Peru 22 Feb. 2005). These were implemented under the National Program Against Family Violence, created by decree on 25 April 2001 (*ibid.* 25 Nov. 2004)

Each CEM has a team that responds directly to women's needs and each is required to have a medical examiner, but this is not always the case (Movimiento Manuela Ramos 24 Feb. 2005). According to MIMDES, CEM staff consists of a psychologist, a social worker, a lawyer, a reception coordinator, and a coordinator of training programs for local and regional authorities (Peru 22 Feb. 2005).

Currently, 41 CEMs are in operation in Peru (*ibid.*). Seven of these are in the capital, Lima; two were opened in 2003 (Cerro de Pasco and Huaraz), two more in 2004 (Huancavelica and Ferreñafe), and another opened this year, in 2005 (Tumbes) (*ibid.*). *Country Reports 2003* reported that MIMDES operated 38 centres by the end of 2003, that their services were provided free of charge, and that the centres were staffed by representatives of various government institutions (25 Feb. 2004, Sec. 5).

According to statistics from MIMDES, the CEMs carried out 254,788 professional interventions during 2004 (Peru n.d.b). These interventions, in the form of referrals, legal aid, psychological counselling and reception, totalled 212,775 in 2002 and 231,272 in 2003 (*ibid.* n.d.c). Some interventions helped women experiencing problems other than domestic and sexual violence (*ibid.* n.d.b). From 2002 to 2004, the number of reported cases of domestic and sexual violence increased from 29,759 in 2002 to 28,053 in 2003, and finally to 30,280 in 2004 (*ibid.* n.d.d). MIMDES indicated that it also provides assistance to child and adolescent victims of sexual violence (*ibid.* 25 Nov. 2004).

### **Shelters**

According to a MIMDES document, the deputy minister of Women and Social Development and the National Institute for Family Welfare (Instituto Nacional de Bienestar Familiar) must establish shelters as part of the government's legal obligations (Peru 25 Nov. 2004). The 2002-2007 national plan addressing violence against women stipulates that 50 shelters must be in place by the year 2007 (*ibid.*). MIMDES recognizes that, despite numerous local efforts, more shelters are needed (*ibid.*). According to MIMDES, only three shelters were open at the end of 2004 (*ibid.*).

### **Telephone help line**

The free telephone help line (Línea de Ayuda Amiga) for women who are victims of domestic and sexual violence received more than 3,000 calls in 2002,

more than 6,000 in 2003, and close to 8,000 calls in 2004 (Peru n.d.e). During 2004, 6,399 calls were directly related to domestic violence, while 1,496 other calls were related to other issues (ibid. n.d.f).

### **Education and awareness**

MIMDES stated that it has heightened the awareness of four million people about the harmful effects of domestic and sexual violence through various campaigns, including televised messages against domestic violence (Peru 25 Nov. 2004). MIMDES continues to organize awareness campaigns targeting government employees and the general public (*Country Reports 2004* 28 Feb. 2005, Sec. 5). A campaign called No Violence Against Women Day (Día de la No Violencia Contra la Mujer) was also organized (Peru 25 Nov. 2004).

Judges, lawyers and police officers were educated in order to make them more sensitive to victims; with the support of the European Union, training programs were offered in 10 cities in Peru (Movimiento Manuela Ramos 24 Feb. 2005). The MIMDES lawyer added that, so far, MIMDES' National Program Against Family and Sexual Violence has educated police officers, judges, lawyers, local officials, and 500 community stakeholders in order to make them aware of the domestic violence problem (Peru 22 Feb. 2005). *Country Reports 2003* indicated that "[w]ith NGO assistance, MIMDES educated police . . . in all police stations as to how to process domestic violence cases" (25 Feb. 2004, Sec. 5).

According to a MIMDES article, 2,829 people were trained to run awareness campaigns targeting youths and 500 women were trained to run domestic violence prevention campaigns (Peru 25 Nov. 2004).

The Manuela Ramos Movement stated that its legal service provided 3,700 consultations in 2004 (Movimiento Manuela Ramos n.d.a). A program called [translation] "A Right to a Violence-Free Life," under the auspices of the Manuela Ramos Movement, deals mainly with domestic violence-related issues (ibid. 24 Feb. 2005). The group often distributes printed material in its awareness campaigns (ibid.).

### **Police and judiciary response**

The police now have a national family protection division (*jefatura de familia*), which indicates that the problem of domestic violence is indeed recognized, according to the lawyer from the Manuela Ramos Movement (24 Feb. 2005).

Although the law no longer requires reconciliation between the victim and the aggressor, this solution is still supported by the attitudes of some judges and police officers (Movimiento Manuela Ramos 24 Feb. 2005). Justices of the peace continue to use reconciliation under the pretext of preserving family unity (ibid.). The lawyer from the Manuela Ramos Movement stated that [translation] "there are still many obstacles for victims to overcome in terms of the procedure in place" (ibid.).

According to *Country Reports 2004*, "the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse or because of the cost involved in pursuing a complaint . . . legal and physical protection was limited by delays in legal processes, ambiguities in the law, and

lack of alternative shelter and income for victims" (28 Feb. 2005, Sec. 5).

Peru's national Ombudsman's office (Defensoría del Pueblo) complained about police officers' indifference to domestic violence cases, even though "the law requires all police stations to receive such complaints" (*Country Reports 2004* 28 Feb. 2005, Sec. 5). In 1996, a unit aimed at remedying discriminatory acts against women was created at the Ombudsman's office (Peru n.d.h). The ombudsman for women's rights has two roles in addressing domestic violence: processing complaints filed against police stations that do not receive domestic violence cases in the appropriate manner, and processing complaints filed against health centres that do not offer free medical services in domestic violence cases (ibid.).

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:** One oral source (Centro de la Mujer Peruana Flora Tristan) could not provide information within the time constraints for this Response.

**Internet sites, including:** Amnesty International (AI), Centro de Documentación sobre la Mujer [Lima], Latin American and Caribbean Committee for the Defence of Women's Rights (CLADEM), Congreso de la República del Perú, Human Rights Watch (HRW), Instituto Nacional de Estadística e Informática (INEI), Justice Studies Center of the Americas, Resource Centre of the Americas, UN Inter-Agency Network on Women and Gender Equality (IANWGE), United Nations Development Fund for Women (UNIFEM), Women Watch, World News Connection.

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