CENTER *for* REPRODUCTIVE RIGHTS

PROMSEX
Salud. Sexualidad. Solidaridad.

Lima, Bogotá, July 14th 2022th

Secretariat of the Human Rights Council

Office of the United Nations High Commissioner for Human Rights

Palais Wilson
52, rue des Pâquis
CH-1201 Geneva, Switzerland

Re: Independent information for Peru's Periodic Review scheduled for the 4th UPR cycle on Perú. Promsex and Center for Reproductive Rights.

Distinguished Members of the Council,

The Center for the Promotion and Protection of Sexual and Reproductive Rights ("**PROMSEX**"),[i] and the Center for Reproductive Rights ("**The Center**")[ii] present this communication to contribute to the work of the Human Rights Council (the "**Council**") by providing information regarding Peru's failures to guarantee the rights of women and girls, protected by several Human Rights Treaty bodies.

I. Peru's Restrictive Interpretation of its Abortion Law and limitations on access to information on reproductive rights.

A. Peru interprets its abortion law narrowly, and there are few circumstances in which legal therapeutic abortion is available

I. Pursuant to Article 119 of the Peruvian Criminal Code, therapeutic abortion is only legal to save the life of a pregnant person or prevent serious and permanent damage to their health—all other forms of abortion are criminalized.[iii] Pregnant people who do not meet these criteria are forced to carry pregnancies to term, face the threat of being subjected to degrading and stigmatizing criminal penalties, or risk an illegal, unsafe abortion. While the Peruvian Criminal Code allows for legal abortion when the health of a pregnant person is in danger,[iv] healthcare providers interpret "health" narrowly: this exception only applies when the pregnant person's life is in grave danger.[v] **Most healthcare providers do not consider the severe psychological, social, and mental health impacts of denying an abortion, forcing individuals into unwanted pregnancy and motherhood.**[vi]

ii. Although Peru's National Technical Guide on Legal Abortion (thereinafter National Technical Guide) (2014) attempts to standardize access to therapeutic abortion,[vii] it also interprets therapeutic abortion restrictively and creates additional barriers. In particular, it establishes an arbitrary limit of 22 weeks for therapeutic abortion,[viii] which is not included in the Criminal Code, that practically curtails access to this health service and forces a pregnant person to continue with an unwanted high-risk pregnancy, *even if it poses serious risks to their health or*

life and would otherwise meet the exception for legal abortion. The National Technical Guide also does not consider serious non-physical health impacts—even for victims of rape. The Supreme Court of Justice of Peru is currently examining a lawsuit that seeks to further restrict this interpretation or, worse, to declare the National Technical Guide for therapeutic abortion unconstitutional.

iii. Moreover, healthcare providers generally lack clarity about the legality of therapeutic abortion and the applicability of the health/life exception, further restricting access to medically necessary, legal abortions. This is compounded by a lack of public information about legal abortion[ix] and the use of conscientious objection by healthcare providers to avoid informing pregnant people about their right to a therapeutic abortion, even when they may be eligible, leaving them unaware of their reproductive rights and unable to access an essential health service,[x] contravening the Convention's recommendations.[xi]

iv. Two recent cases exemplify the lack of access to therapeutic abortion and the disregard of non-physical health impacts in Peru.[xii] In each case, a 13-year-old victim of rape was not informed of the risks of her pregnancy or her right to undergo a therapeutic abortion by medical practitioners; one of these girls died due to complications from giving birth.[xiii]

B. Peru criminalizes women who receive an abortion and abortion providers, further restrict its access

v. The criminal penalty for undergoing an illegal abortion is up to two years of prison.[xiv] Peru also criminalizes abortion in cases of rape and fetal malformations incompatible with extrauterine life.[xv] Article 120 of the Peruvian Criminal Code establishes a reduced three-month sentence in cases of extramarital rape, which is only applicable if the victim has filed a complaint with the police, creating additional burdens for the victim.[xvi] Also, this reduced sanction only applies to extramarital rape,[xvii] which subjects married women to greater criminal penalties and reinforces the presumption that husbands cannot rape their wives, contravening Article 16 of the Convention by discriminating women based on their marital status.

vi. In the last decade, 571 women were prosecuted for self-induced abortion.[xviii] Between 2015 and 2018, prosecutors filed 961 claims for illegal abortion and prosecuted 321 cases before criminal courts.[xix] **The threat of criminal prosecution and social stigmatization creates further barriers to access legal abortion, and encourages women to resort to clandestine abortions that involve serious risks to their life and health**.[xx] Furthermore, forcing women to endure criminal prosecution and possible conviction results in mental suffering and degrading social stigmatization.[xxi] Between 2018 and 2020, there have been 406 criminal ongoing processes against women under abortion charges, which creates a complex environment for women needing to access abortion. According to the Health Ministry, during 2021 there was 1400 abortion performed on girls between 12 and 17 years old.[xxii]

vii. Additionally, assisting a pregnant person to undergo an illegal abortion can result in being sentenced to up to four years of prison.[xxiii] In addition, healthcare providers may lose their professional licenses.[xxiv] These penalties further restrict access to legal therapeutic abortions, as medical professionals can be less willing to provide a therapeutic abortion or care for people who have undergone an abortion, fearing these consequences.

viii. Furthermore, healthcare providers are obligated, pursuant to Article 30 of the General Health Law, to report women with indications of a "criminal abortion" to authorities.[xxv]

This includes cases of miscarriages where sanitary personnel suspects and induced termination of pregnancy. This requirement constitutes **a breach of medical professional confidentiality**—an unethical medical practice—**which also constitutes mistreatment in accessing reproductive healthcare services that can cause enormous and long-lasting physical and emotional suffering.**[xxvi] Even though Article 165 of the Peruvian Criminal Code punishes violations of professional secrecy, including medical confidentiality,[xxvii] Article 30 of the General Health Law, compounded with Article 407 of the Peruvian Criminal Code, ,[xxviii] effectively forces healthcare providers to report patients and become prosecutors of Peru's restrictive abortion laws and the "crime" of illegal abortion. Given the lack of knowledge of the legal framework for therapeutic abortion, medical professionals report almost every obstetric emergency to the authorities. Thus, this reporting requirement, in violation of the duty to preserve professional secrecy[xxix] serves as a legal tool to discourage pregnant people from accessing abortion services or receiving care for obstetric complications and prevents medical personnel from assisting pregnant people for fear of being apprehended[xxx] and facing criminal sanctions, mentioned above.

II. Barriers to Access and to Use Sexual and Reproductive Health Services and Information

A. Social and economic structural barriers restrict access to information and services for women and girls

ix. While women and girls in Peru are entitled to access reproductive health services and education by law, several barriers restrict their access in practice. The government is required to provide contraception for free.[xxxi] Despite this, access to contraception, particularly the emergency contraceptive pill, is limited. As of 2017, an estimated 53.9% of women of reproductive age in Peru used some form of contraception.[xxxii] However, a 2016 study conducted by the *Instituto Nacional de Estadística e Informática* [xxxiii]found that, while 74.6% of married women of reproductive age or cohabitating with their partner used birth control, only 52% of them used modern birth control methods, while the remaining 24% relied on traditional methods.[xxxiv] In urban areas, 17.1% out of the 74.6% had no access to contraceptives, while in rural areas, the number of women reached 24.5%.[xxxv]

x. The law 904/2021,[xxxvi] aims for restrictions on the available information on sexual and reproductive right for children and adolescents. The approved law force the authorities to consult any class materials with parents before using them with children. This allows parents, and specially parents associations, to exercise some censoring on the information received in scholar curriculums.

xi. While the government contributes to the funding of contraceptives, insufficient resources are attributed to training healthcare workers.[xxxvii] As a result, healthcare workers often do not adequately inform women and girls about the full range of family planning methods available at no cost, and recommend instead contraceptive methods that are more practical for healthcare workers, like contraceptive injections.[xxxviii].

B. Access is particularly limited in rural, *campesino*,[xxxix] and indigenous communities

xii. In rural areas, many women do not have access to sexual and reproductive health services and information. This is partly due to the legacy of distrust by indigenous communities

of government-provided sexual and reproductive health services. Throughout the late 1990s, Peru's government conducted a forced sterilization campaign targeting indigenous and Quechua-speaking women, masquerading it as a family planning program for impoverished communities.[xl] To this day, victims have not been granted with access to justice and reparations for the violations suffered, and some political sectors refuse to recognize the thousands of forced sterilizations conducted during the above-mentioned period.[xli]

xiv. The pervasive distrust of public health services for rural and indigenous women is compounded by a lack of access. In the Amazon region of Loreto, in a study published by the journal "Equality in Health" conducted with 50 women, 41% of them indicated that health facilities are sometimes closed when they arrive, 58% indicated that health facilities often lack essential material and medicines, and 31% preferred to speak to a community health agent rather than their local health professional.[xlii] Furthermore, only 63% of the women reported using any method of contraception, with only 43% using modern methods of contraception.[xliii] Regarding medical care during pregnancy and delivery, 16.5% of the women interviewed in this region did not receive prenatal care, and 28.5% of women did not give birth in a health facility.[xliv] The low statistics on hospital deliveries is not *per se* a negative indicator, but rather evidences both the use of home birthing as a traditional and common practice for many rural, indigenous and campesino communities in Peru,[xlv] as well as the fact that many of these women have reported that their needs, demands, and traditions are not respected by health personnel.[xlvi] Nevertheless, even where local health services are offered, rural, indigenous, and campesino women do not have access to adequate and appropriate information and medical care.

xv. Many indigenous and *campesino* women and girls do not receive any form of sexual education[xlvii] and even when education is available, **it is not provided with an inter-cultural approach**. In addition, there is a complete disregard for their traditional knowledge, customs, and practices,[xlviii] such as vertical and home birthing, as well as a significant language barrier since medical services are often offered only in Spanish. Specifically, the indigenous custom of vertical birth is often disregarded in hospitals or health clinics,[xlix] as exemplified by the case of *Eulogia and her son Sergio vs. Peru.*[l]Eulogia is a quechua speaking woman that during her sixth pregnancy did not have access to adequate prenatal care, healthcare, or information due to the inaccessibility – physically and culturally – of these health services.[li] On August 2003, she went into labor and was forced to go to a public health center (instead of respecting her decision to have a home birth, as she had done previously).[lii] Once there, Eulogia was not provided with assistance in her language and was abandoned without care, notwithstanding she was in evident pain.[liii] Eulogia was violently and physically forced to give birth in a horizontal position (which is against her ancestral customs) and, as a result, her son Sergio was hit in the head at the moment of birth.[liv] After birth, Eulogia was separated from Sergio and abandoned once again by the health personnel. Moreover, she was forced to bathe with cold water, in violation of her traditions regarding postpartum care. These situations are forms of obstetric violence that affected Eulogia's rights. Most indigenous women live situations such us Eulogia´s, and have restricted access to information, services, and ultimately, justice.

xvi. The Peruvian Ombudsman Office released in 2020[lv] a report on obstetric, stressing how indigenous women more vulnerable to this form of reproductive rights violations, as their reproductive decisions are most likely not considered by medical personnel. The report states the negative impacts of forced or non-consensual c-sections in the regular lives of indigenous women, that are affected by longer recovery periods. [lvi]

C. Barriers in access to the emergency contraceptive pill

xvii. Only 18.7% of healthcare personnel of integral care for adolescents provide access to the emergency contraceptive pill.[lvii] In addition, despite being legally required to do so,[lviii] healthcare institutions often refuse to grant access to emergency kits, which contain the emergency contraceptive pill, to victims of sexual violence.[lix] A recent Decree issued by the Ministry of Health emphasized the right of women to have access to the emergency contraceptive pill, notably in the case of rape.[lx] However, even if healthcare institutions are willing to supply the emergency contraceptive pill, Peru has historically experienced shortages.[lxi] Concerningly, a 2014 study also found that a quarter of the emergency contraceptive pills sold in Peru did not work.[lxii] In this regard, eight percent of the pills analyzed in the study lacked the active ingredient necessary to prevent pregnancy, while another 20% did not release the active ingredient quickly enough, leading to lower the rates of effectiveness.[lxiii]

xviii. In 2009, the Peruvian Constitutional Court ruled that the Ministry of Health was no longer allowed to distribute the emergency contraceptive pill for free because it had not clearly demonstrated that the pill was not abortive.[lxiv] In 2016, a precautionary measure allowing access to the emergency contraceptive pill was granted, and the 2009 decision was overturned by a first-level judge in 2019.[lxv] However, in 2020, anti-abortion organizations appealed the 2019 decision overturning the ban, and a second-instance Court declared the decision null.[lxvi] **This decision is currently on appeal at the Constitutional Court,[lxvii] and despite that the 2016 precautionary measure remains in place, the ongoing legal uncertainty creates confusion and contributes to the lack of access to this essential health service.**[lxviii] Furthermore, the uncertainty surrounding whether emergency contraception should be provided at no cost disproportionately affects low-income women, who cannot afford to pay for emergency contraception.

xix. Maria, a woman living in poverty conditions, was sexually attacked and denied access to emergency contraception, because at the time of the attack it was limited by a decision of the Constitutional Court. Maria did not received information about the emergency contraception and was not provided by the Health System even when she was hospitalized at a public hospital[lxix] Maria is only one of the examples of how women are deeply affected by the lack of information and access to emergency contraception, especially in cases of rape.

D. Forced pregnancy and the devastating impact on women's lives, health, and wellbeing as a barrier on the exercise of sexual and reproductive rights.

xx. The above mentioned barriers to accessing safe, legal abortion, and the limited provision of sexual and reproductive health information, education,[lxx] and services, including the emergency contraceptive pill , result in forcing pregnancy and motherhood on women, exacerbating the impacts for those who were victims of sexual violence Almost 20% of the girls in Peru are pregnant by the age of 19.[lxxi] For marginalized and/or low-income populations, this number reaches 32% in some rural areas and in the Amazon region of Loreto.[lxxii] In addition, 34% of adolescents who reported suffering sexual violence and rape became pregnant as a result[lxxiii] and 14% of them were between 10-14 years old.[lxxiv] In 2019, there were 1,432 births from mothers under the age of 15,[lxxv] despite the fact that all sexual relations with a girl under 14 years old constitute rape under Peruvian law.[lxxvi] In 2020, 1158 girls under 15 years old gave birth, and 47.388 between 15 and 19 years old became mothers. [lxxvii]

xxi. Victims of sexual violence are often denied specialized sexual and reproductive health services, <u>or their access to such services is delayed as "punishment"</u>.[lxxviii] Furthermore, they are generally subjected to revictimization, including **emotional and verbal abuse** by medical professionals.[lxxix]

xxii. Equally, forced pregnancy has a critical impact on social health.

Girls and adolescents who experience pregnancies largely suffer from social stigma, leading to reputational damage to girls who may be shunned and abandoned by their families and communities.[lxxx] This stigma reinforces stereotypes of female behaviors and subordination and thereby perpetuates gender-based violence. Furthermore, forced pregnancy impairs women and girls' ability to continue their education or find stable employment, exposing them to high levels of life-time poverty and abusive relationships.[lxxxi] Moreover, suicide is disproportionately associated with adolescent pregnancy, particularly in settings where reproductive choice is limited.[lxxxii] This is an affront to the right to a life with dignity[lxxxiii]

E. Maternal mortality

xxiv. In 2017, Peru had a maternal mortality rate of 88 deaths per 100,000 live births,[lxxxiv] one of the highest in Latin America[lxxxv] The maternal mortality rate below the age of 19 is even higher at 14.9%.[lxxxvi] Adolescents face a risk four times higher than adults of dying during childbirth, due to a higher risk of complications, in addition to an increased risk of committing suicide resulting from the mental and social trauma of experiencing adolescent pregnancy.[lxxxvii] In the Sierra and Selva regions, the maternal death rate is four times higher than in the coastal regions.[lxxxviii] In rural areas, obstetric hemorrhage is responsible for more than 50% of maternal deaths,[lxxxix] evidencing that the lack of access to sexual and reproductive healthcare information and services has disproportionate consequences for rural women.

xxv. Peru's failure to protect women from forced pregnancies and motherhood, the collateral severe mental health effects and the devastating impacts on social and emotional health that affect their ability to carry out their life plan. Furthermore, Peru's failure to take measures to address maternal mortality subjects women to suffering and preventable deaths, contributing to these violations.

III. Systemic Gender-Based Violence

xxvi. Peru "is one of the countries in the region most affected by gender-based violence."[xc] As of 2017, it was estimated that 31% of women aged between 15 and 49 years old experienced physical or sexual violence from their intimate partner.[xci] **Between 2014 and 2020, reported cases of violence against women at the Emergency Centers for Women almost doubled, rising from 43,810 to 97,926 cases**,[xcii] despite the fact that the Women's Emergency Centers were forced to discontinue their services between April and June 2020.[xciii] **Furthermore, as of May 2021, there were already 57,088 reported cases of violence against women for the year**.[xciv]

xxvii. According to official data, 149 women were victims of femicide in 2018, and between January and July 2019, 99 women were victims of the same crime.[xcv] In general, laws

addressing gender-based violence are not enforced or implemented effectively,[xcvi] and the prevalence of sexual and obstetric violence are specifically alarming in Peru.

xxviii. The rates of violence against women and, particularly, sexual violence in Peru, are high and have continued to rise. In 2019, 155,092 cases of violence against women, including sexual violence, received medical care at the Emergency Centers[xcvii]—an increase of over 40,000 cases from the prior year.[xcviii] **Of these cases, there were 18,044 cases of sexual violence and, 55,565 of the victims were younger than 18 years old**.[xcix] Nationwide, according to the Ministry of the Interior, between 2017 and May 2019, 18,138 acts of rape were reported, from which 93.2% of the victims were women, 60.6% of whom were younger than 18 years old.[c] Sexual violence is disproportionately prevalent in rural areas, as demonstrated by the fact that, between 2017 and 2018, 49% of the cases of rape treated at the Emergency Centers involved women from rural areas, adding to the fact that 47.6% of the victims were between 13 and 14 years old.[ci]

xxix. Relatedly, **the justice system in Peru fails to protect victims of sexual violence or to provide them with adequate reparations for the harms experienced**. Societal and cultural norms and stigmas perpetuate impunity and tolerance for perpetrators of sexual violence, and the justice system is influenced by gender-based stereotypes. For example, in November 2020, a judge ruled against a 20-year-old woman who reported being raped, because she was wearing "suggestive red underwear" that indicated she "wanted intimacy."[cii] **This type of rulings not only re-victimize and cause great pain and suffering to survivors of sexual violence, but also demonstrate that judges continue to employ harmful gender-based stereotypes perpetuating cycles of impunity and normalizing sexual violence. This represents a violation of women and girls' rights to life, integrity, health, and access to justice.**

IV. The situation of violence and discrimination against LGBTI persons

xxx. The situation of LGTBI people in Peru is still characterized by the widespread discrimination and violence they experience. A recent survey conducted as part of the LGBTI Annual Report 2021[ciii]revealed that 62.2% of LGBTI persons were formally employed, and only 38.9% of this percentage reported earning more than the minimum living wage, while 48.9% earned less than the minimum living wage. It should also be noted that 62.12% work as self-employed workers, 31.1% are on a company's payroll, and only 6.78% are on the payroll of the State. Regarding the right to education, only 28.9% successfully completed university education, while 34.4% indicated that they had incomplete university education, and the lack of economic resources was the leading cause of dropout (69.3%).

xxxi. Regarding the right to health, there are no strategies to improve access and coverage to sexual and reproductive health services for lesbian, bisexual, and trans people, nor guidelines to provide information and communication materials based on a rights-based approach, with no discrimination based on sexual orientation, gender identity or expression, and with a gender perspective. In the Report mentioned above, 63.3% of LGBTI persons could access health services, although 21.1% do not have public or private insurance. In addition, 57.14% of trans people surveyed could not access hormone replacement treatment during 2021.

xxxii. Regarding the rights to education and access to justice, the number of complaints reported for violence and discrimination decreased, according to information provided by the SISEVE Portal and the AURORA Program. However, in the educational sphere, this may be due

to the context of isolation and online classes, and life in general. Thus, virtuality has impacted social relationships and possible decreased contact between LGBTI persons and their aggressors. Regarding access to justice, the Judiciary has served (and continues to serve) only online, which means that any person wishing to file a lawsuit must have internet access. This applies for all processes and jurisdictions.

A. Information systematization on the situation of violence against LGBTI persons:

xxxiii. In Peru, there is no single disaggregated registry that records violence and discrimination against LGBTI persons, even though this reparation was ordered by the Inter-American Court in the Azul v. Peru case.[civ] The information that has been systematized has responded to the efforts of civil society organizations through requests for information rather than government initiatives concerned with understanding and addressing this problem. The absence of collection and management of official records on sexual orientation and gender identity makes LGBTI persons invisible.

B. Legal framework for the protection of the rights of LGBTI persons:

xxxiv. The Political Constitution of Peru does not prohibit discrimination based on sexual orientation and gender identity. The Code of Constitutional Procedure expressly states that "The Amparo action proceeds in defense of the following rights: the right to equality and the right not to be discriminated against based on origin, sex, race, sexual orientation, (...)"[cv]. The Code only protects sexual orientations, but not gender identities. The Peruvian State signed the " Inter-American Convention against All Forms of Discrimination and Intolerance that includes sexual orientation and gender identity" on 2016, but is pending debate and ratification by the Congress. Otherwise, it will not enter into force in the country.

xxxv. Furthermore, no legislative initiatives have been approved to date to guarantee the rights of LGBTI persons; on the contrary, the Congress has kept an adverse agenda. Congressmen and congresswomen have so far denied the possibility of including sexual orientation and gender identity as protected categories. It should be noted that the legislative discussions on the protection of the rights of LGBTI persons have not progressed, which is why several proposals have been shelved, and there are other initiatives pending to be debated[cvi].

xxxvi. Also, in Peru, the practice of “conversion therapies”[cvii], is not punished. According to an study published in 2019, 40% of the 323 people surveyed claimed to have been victims of conversion practices in the course of their lives,[cviii] and about 62% were subjected to these practices when they were minors[cix].UN experts have already pointed out that these "therapies" cause profound physical and psychological trauma and may therefore amount to torture or other cruel, inhuman or degrading treatment.[cx]

C. *Lack of due diligence faced by LGBTI persons when they are victims of violence and/or discrimination*

xxx. In cases of violence and discrimination against LGBTI persons, there are no specialized protocols in the Justice System both for the assistance of victims and for technical investigation of the facts, especially when the victims are LGTBI children and adolescents. The Ombudsman's Office stated that "there is a strong refusal and distrust of reporting these crimes to

the justice system, because it is perceived as ineffective when investigating these facts, or because it is also considered to be permeated by prejudices and negative stereotypes.[cxi]." Among the main barriers to accessing justice are prejudice and neglect by authorities, stereotypes, revictimization, evaluation of evidence, few and inadequate protection measures, and impunity. In addition to the delay in the judicial process[cxii], the victim is not provided with protection during the investigation.

xxxi. The 2021 LGBTI Report[cxiii] revealed that in terms of access to justice, 17.5% were discriminated against in State services dealing with violence cases. 51.9% suffered physical, psychological, and/or sexual violence in public spaces, and 78% indicated that the violence was perpetrated by an unknown person.

xxxii. This has been aggravated by COVID-19. The activities and proceedings ordered by the justice bodies are at a standstill, procedural deadlines are not met, and there is a delay in the processing of files and, thus, the channels for reports/ complaints, besides the unavailability of free legal advice, creates a situation of defenselessness for LGBTI persons who see their rights violated.

xxxiii. Violence and discrimination against LGBTI children and adolescents at schools

xxxiv. The School Climate survey[cxiv], found that 7 out of 10 students felt unsafe at school because of their sexual orientation and 3 out of 10 because of their gender expression/identity. 72% of students were verbally harassed because of their sexual orientation and 58% because of their gender expression[cxv]. Likewise, a study conducted by the Cayetano Heredia Peruvian University on homophobic bullying in public educational institutions in Peru showed that 44% of respondents said they had suffered some kind of bullying or harassment at school and 68% confessed to having been victims of bullying because they were homosexual.[cxvi]

xxxv. The pandemic also meant that students did not have to attend school in person and, therefore, did not have direct contact with their aggressors in these environments. This may explain the decrease in the number of school violence cases reported in the SISEVE Portal.[cxvii] Thus, while a total of 13,014 cases of school violence were reported in 2019, when classes were taught in person, during the pandemic, this figure dropped to 756 cases in 2020 and 770 cases in 2021. In the case of LGBTI children and adolescents, there was also a decrease in the number of reported cases. In 2019, prior to Covid19, a total of 118 cases of school violence based on sexual orientation and/or gender identity were reported; during Covid19, this number dropped to 10 cases in 2020, and 30 cases in 2021.

D. Status of human trafficking for sexual exploitation and its impact on girls and adolescents.

xxx. According to the System of Registration and Statistics of the Human Trafficking and Related Crimes (RETA), between January and July 2019, 121 reports of human trafficking were registered through. In 2018, the total amounted to 361 complaints, 163 fewer than the total seen in 2017. According to the registered purpose in the reports of human trafficking through that system, the highest number of reports is sexual exploitation (30), followed by labor exploitation with 13 reports; the remaining number includes reports that have not specified the purpose, in the period January-July 2019. Between January and July 2019, 386 female victims have been registered, representing 96.5% of the total number of reports in this period[cxviii].

Recommendations

We respectfully suggest the honorable Council and its State members to make the following recommendations to the Peruvian State:

Access to sexual and reproductive health services

- Eliminate barriers to access to abortion related to the restrictive interpretation of the health/life exception under the current legal framework
- Legalize abortion in cases of rape, incest, , severe fetal impairment and decriminalize it in all other cases.
- Guarantee access to abortion for girls, without any form of discrimination, given the higher risk that pregnancy poses to their physical and mental health
- Cease criminal prosecutions against people for undergoing abortions and against medical professionals for performing abortions
- Adopt measures to guarantee due process for people prosecuted for abortions related crimes
- Reform laws and policies, so people can access sexual and reproductive services, including:
    - sexual and reproductive health information and education that is comprehensive, non-discriminatory, evidence-based, up-to-date and age appropriate; comprehensive reproductive health care services that are of quality, accessible to all, and non-discriminatory, which include the provision and explanation of family planning methods, emergency contraception, access to abortion, all under the principles of confidentiality, informed consent, progressive capacity of girls and adolescents, best interests of the child, and non-discrimination; actions to combat misinformationand stigma regarding sexual and reproductive health effective, timely, non-discriminatory, culturally appropriate and adequate access to sexual and reproductive health care services and information specifically available for rural and indigenous women
- Recommend the creation and implementations of protocols that prevent obstetric violence in medical environments
- Recommend the guarantee of access to emergency contraception, specially in cases of rape.

Prevention of forced pregnancies and maternal mortalities

- Adopt regulatory and budgetary policies to:
    reduce the rate of forced pregnancies, particularly those resulting from rape, in particular in girls and adolescents ensure that survivors of sexual violence, especially girls and adolescents, have access to comprehensive sexual and reproductive health services without discrimination and re-victimization by health sector officials, including access to emergency kits, the emergency contraceptive pill, and access to abortion services
- prevent sexual violence, especially against girls and adolescents, and to combat impunity, ensuring the implementation of a gender-based approach in cases of sexual violence, whilst providing substantive redress for victims
- ensure that indigenous and rural women have access to health services without fear of experiencing obstetric violence by health sector professionals
- Ensure access to culturally appropriate obstetric care for indigenous and rural women that is free from violence and discrimination, provided in their language, and which respects their traditions and beliefs.
- Adopt preventive measures to address maternal mortality, particularly with respect to girls and adolescents.

- Ensure the implementation of the 2016-2021 National Plan Against Gender-Based Violence
- Enforce investigations and, if appropriate, sanctions against health sector officials who have committed humiliating and degrading acts against pregnant women, with a particular emphasis on indigenous, campesino and rural women.
- Guarantee proper access to comprehensive sexual education as a way to provide tools to prevent all forms of sexual violence against women and girls.
- Recommend Perú to reconsider the recent educative materials law, and find an appropriate way to comply with its international obligations on comprehensive sexual education.

Protection in the context of the COVID-19

- Ensure access to timely, non-discriminatory, and adequate sex and reproductive health care services, education, and information during the COVID-19 pandemic, particularly for those living in rural, vulnerability or low socio-economic contexts
- Ensure the provision of free contraceptive methods as well as the emergency kit for victims of sexual violence
- Guarantee adequate care for pregnant people, especially indigenous and rural women, during prenatal checkups and delivery care with quality standards.
- measures for the prevention of and protection from sexual violence suffered in places of confinement during the COVID-19.

Defense and protection of the rights of LGBTI persons

- Ensure respect for and promotion of the rights of LGBTI persons.
- Guarantee the right to health of LGBTI persons through a comprehensive health program and counseling protocols that consider practices other than heterosexual ones and are directed at lesbian, bisexual and transgender women and men.
- Design and implement a system for collecting data and figures related to cases of violence against LGBTI persons, in accordance with paragraph 252 of the case of Azul v. Peru.
- Create and implement a training and awareness plan, particularly for personnel of the Peruvian National Police, members of the Armed Forces, and local public guards, on the rights of LGBTI persons.
- Include in the legal system the sanctioning of conversion therapies, the offering, and performance of all psychotherapeutic and medical practices aimed at changing persons' sexual orientation and gender identity. This should include administrative and criminal penalties for health professionals who practice and promote them.
- Implement specialized protocols for assistance, investigation, and prosecution in cases of violence and discrimination against LGBTI persons, especially in cases of children and adolescents.
- Create and implement a policy to prevent, address or sanction cases of violence in schools against children and adolescents because of their real or perceived non-normative sexual orientation and gender identity.
- Guarantee the implementation of the National Education Curriculum in times of health emergency and, thus, work to eradicate multiple forms of discrimination, stereotypes, and gender roles through an educational policy and REPEAL Law 31498, a Law that promotes the quality of educational materials and resources in Peru.

Human Trafficking.

- Develop early warning measures for the search and identification of cases of women, particularly girls and adolescents, who have gone missing.
- Design a single disaggregated registry on the number of trafficking victims and consolidate a registry on the number of prosecutions and convictions of traffickers.
- Train officials of the Public Prosecutor's Office and the Peruvian National Police, who work on the borders and in the departments with the highest rates of trafficking, and personnel of the Residential Care Centers in the care of victims of trafficking, considering the gender approach.
- Disseminate platforms or channels for victims of human trafficking to file complaints.

We appreciate the opportunity to report to the honorable council, and to express the results of our research on the situation of sexual and reproductive rights in Perú.

Cordially,

Rossina Guerrero

PROMSEX

Catalina Martínez

Center for Reproductive Rights

[i] **PROMSEX** is a feminist non-governmental organization that contributes to the integrity and dignity of people's access to sexual and reproductive health and to people deciding on their sexuality and reproduction with autonomy, dignity, justice, and equality.

[ii] **The Center** is a global non-governmental legal advocacy organization that works for the protection and respect of the sexual and reproductive rights of girls and women around the world and seeks to promote reproductive freedom and autonomy as a fundamental right that all governments are legally obligated to protect, respect and guarantee.

[iii] CÓDIGO PENAL [C. PEN.] [CRIMINAL CODE] art. 119 (Peru), available at:http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[iv] CÓDIGO PENAL [C. PEN.] [PENAL CODE] art. 119 (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[v] *See My Rights, and My Right to Know: Lack of Access to Therapeutic Abortion in Peru*, HUMAN RIGHTS WATCH (July 8, 2008), available at: https://www.hrw.org/report/2008/07/08/my-rights-and-my-right-know/lack-access-therapeutic-abortion-peru (explaining that the Peruvian Criminal Code "doesn't specify what is meant by the term 'health.' It only looks at the imminence of death or [potentially fatal] problems of physical health without considering mental health repercussions.").

[vi] *See*, Human Rights Committee, *Views, K.L. v. Peru*, U.N. Doc. CCPR/C/85/D/1153/2003 (Nov. 22, 2005) (available at: https://reproductiverights.org/wp-content/uploads/2020/12/KL-HRC-final-decision.pdf), whereby the Committee noted that even though medical authorities were aware that the pregnancy of an anencephalic fetus, exposed the author – a minor- to a life-threatening risk, notwithstanding, the author was denied access to an abortion, para 6.2. *See,* CEDAW Committee, *Views, L.C. v Peru*, U.N. Doc CEDAW/C/50/D/22/2009. Available at https://www2.ohchr.org/english/law/docs/CEDAW-C-50-D-22-2009_en.pdf whereby the Committee found that the medical authorities refused to perform and urgent and necessary spinal

surgery because L.C was pregnant – to prevent "potential harm to the foetus", notwithstanding the evident physical and mental health risks for the author – who had been a victim of rape, had attempted suicide, and was facing a possibility of physical immobility or permeant disability if not surgery was performed, paras… *See also,* the case of El Golf Clinic, where a woman was denied access to an abortion notwithstanding the mental health impacts. La Ley, *Indecopi: clínicas deben tramitar pedido de aborto terapéutico si se acredita daño a la salud mental de la gestante*, July 11, 2017. Available at: https://laley.pe/art/4066/indecopi-clinicas-deben-tramitar-pedido-de-aborto-terapeutico-si-se-acredita-dano-a-la-salud-mental-de-la-gestante

[vii] *See* Ministry of Health (MINSA)*, Guía Técnica Nacional para la Estandarización del Procedimiento de la Atención Integral de la Gestante en la Interrupción Voluntaria por Indicación Terapéutica del embarazo menor de 22 semanas con consentimiento informado en el marco de lo dispuesto en el artículo 119 del Código Penal,* approved by Resolution No. 486-2014/MINSA (June 27, 2014), http://bvs.minsa.gob.pe/local/MINSA/3795.pdf.

[viii] *Id.*

[ix] Luis Távara Orozco et al., *Barriers to Access to Safe Abortion in the Full Extent of the Law in Peru*, 62 REVISTA PERUANA DE GINECOLOGÍA Y OBSTETRICIA, no. 2 (2008), https://www.redalyc.org/jatsRepo/3234/323446799003/html/index.html#redalyc_323446799003_ref29.

[x] Luis Távara Orozco, *Simposio: Bioética y Atención de la Salud Sexual y Reproductiva: Objeción de Conciencia*, 63 REVISTA PERUANA DE GINECOLOGÍA Y OBSTETRICIA, no. 4 (2017), http://www.scielo.org.pe/scielo.php?script=sci_arttext&pid=S2304-51322017000400010.

[xi] Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Peru; CEDAW/C/PER/CO/7-8 (24 July 2014).

[xii] Even though between July 2014 and 2016, 917 women were able to access a therapeutic abortion, in the absence of public information, the actual number of abortion requests which were denied is unknown. Response from the Ministry of Health to the request for access to public information: Exp.16-051635-001; Response from the Ministry of Health, to the request for public information: Number of women who have undergone voluntary termination of pregnancy for therapeutic indication by months according to departments from July 2014 to 2016.

[xiii] The first case involves the 13-year-old girl N.G.R.H who went on January 30 and March 7, 2019 to the Edgardo Rebagliati National Hospital presenting complications in her pregnancy. The doctors did not inform her about the risks of the pregnancy and the possibility of accessing the evaluation of a Medical Board that, by therapeutic indication, would recommend the termination of the pregnancy. According to the Ombudsman's Office, the facts show that N.G.R.H.'s mother did not feel satisfied with the care received by her daughter and went to the Lima Maternity Hospital to request a second technical opinion. The Ombudsman's Office intervened due to the violation of the right to health of N.G.R.H. Paola Mendieta Medina, *El drama de la niña N.G.R.H.: Tantas veces ultrajada*, DIARIO CORREO (Mar. 31, 2019), https://diariocorreo.pe/edicion/lima/el-drama-de-la-nina-ngrh-tantas-veces-ultrajada-878936/. The second case is about the 13-year-old girl M.F.A.M., who died after giving birth on February 26, 2019 at the Hospital San Juan de Dios de Pisco, in Ica. Neither she, nor her family were given adequate counseling about the risks of pregnancy and her right to a therapeutic abortion. She underwent a cesarean section at nine months of pregnancy when her health condition became complicated. Leonor Perez-Durand, *Una niña muere por parir "su bendición"*, LA MULA (Mar. 7, 2019), https://teleoleo.lamula.pe/2019/03/07/una-nina-muere-por-parir-su-bendicion/leoperezdurand/.

[xiv] CÓDIGO PENAL [C. PEN.] [CRIMINAL CODE] art. 114 (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[xv] The criminal penalty for these two circumstances is three months in prison. *Id.* at arts. 114, 120.

[xvi] CÓDIGO PENAL [C. PEN.] [CRIMINALL CODE] art. 120 (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[xvii] CÓDIGO PENAL [C. PEN.] [CRIMINALL CODE] arts. 114, 120 (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[xviii] Elizabeth Salazar Vega, *Abortar en Perú: cuando víctima y familiares son llevados a cárcel*, OJO PÚBLICO (Oct. 22, 2019), https://ojo-publico.com/1411/abortar-en-peru-victima-y-familiares-son-llevados-carcel.

[xix] *Id*.

[xx] Juan Carlos Díaz Colchado & Beatriz Ramírez Huaroto, *El aborto y los derechos fundamentales: Análisis de la constitucionalidad de la prohibición penal de la interrupción del embarazo en supuestos de violación sexual y de malformaciones fetales incompatibles con la vida extrauterina*, CENTRO DE PROMOCIÓN Y DEFENSA DE LOS DERECHOS SEXUALES Y REPRODUCTIVAS (PROMSEX), May 2013, Pg. 72, https://promsex.org/wp-content/uploads/2013/10/elAbortoylosDerechosFundamentales.pdf.

[xxi] Juan Carlos Díaz Colchado & Beatriz Ramírez Huaroto, *El aborto y los derechos fundamentales: Análisis de la constitucionalidad de la prohibición penal de la interrupción del embarazo en supuestos de violación sexual y de malformaciones fetales incompatibles con la vida extrauterina*, CENTRO DE PROMOCIÓN Y DEFENSA DE LOS DERECHOS SEXUALES Y REPRODUCTIVAS (PROMSEX), May 2013, at 44, https://promsex.org/wp-content/uploads/2013/10/elAbortoylosDerechosFundamentales.pdf.

[xxii] According to info provided by the Ministry at Promsex request

[xxiii] Código Penal [CRIMINAL CODE] art. 114, 115, 120. (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[xxiv] *Id.* at arts. 115, 117.

[xxv] LEY GENERAL DE SALUD [GENERAL HEALTH LAW], Ley No. 26842, art. 30 (Peru), which establishes that "[t]he physician who provides medical attention to a person injured by a knife wound, gunshot wound, traffic accident or other type of violence that

constitutes a crime prosecutable ex officio or when there are indications of criminal abortion, is obliged to report the incident to the competent authority". Available at: http://www.essalud.gob.pe/transparencia/pdf/publicacion/ley26842.pdf.

[xxvi] General Assembly, *Rep. of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez*, U.N. Doc. A/HRC/22/53 at 10-12 (Feb. 1, 2013), https://undocs.org/A/HRC/22/53.

[xxvii] CÓDIGO PENAL [CRIMINAL CODE] art. 165 (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[xxviii] CÓDIGO PENAL [CRIMINAL CODE] art. 407 (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[xxix] World Health Org., *Safe abortion: technical and policy guidance for health systems*, https://www. http://apps.who.int/iris/bitstream/handle/10665/70914/9789241548434_eng.pdf?sequence=1

[xxx] Sara Gomez, O'Neill Inst. for Nat'l and Global Health L. & IPAS, *Delatando a las mujeres: el deber de cada prestador/a de servicios de denunciar*, LATIN AMERICAN CONSORTIUM AGAINST UNSAFE ABORTION (CLACAI), 2016, at 15. Available at: https://clacaidigital.info/bitstream/handle/123456789/790/CRIPPCS16.pdf?sequence=5&isAllowed=y.

[xxxi] Such contraception includes condoms, emergency contraceptive pills, subdermal implants, IUDs, and birth control shots. Hiperderecho, *Country case-study: sexual and reproductive rights in Peru*, PRIVACY INTERNATIONAL (May 15, 2020), https://privacyinternational.org/long-read/3791/country-case-study-sexual-and-reproductive-rights-peru. *See also* LEY DE POLÍTICA NACIONAL DE POBLACIÓN [NAT'L POP. POL'Y LAW], Ley Nº 26530 (Peru).

[xxxii] U.N. Dep't of Econ. & Soc. Affairs, *Contraceptive Use by Method 2019*, UNITED NATIONS, 2019, https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/files/documents/2020/Jan/un_2019_contraceptiveusebymethod_databooklet.pdf.

[xxxiii] (National Institute of Statistics and information technology)

[xxxiv] Myriam Escalante, *El 24% de mujeres en el Perú no accede a métodos anticonceptivos*, OJO PUBLICO (Mar. 19, 2018), https://ojo-publico.com/642/el-24-de-mujeres-en-el-peru-no-accede-metodos-anticonceptivos.

[xxxv] *Id.*

[xxxvi] Project available at the official website of the Peruvian Congress Publicacion Oficial - Diario Oficial El Peruano (congreso.gob.pe)

[xxxvii] *Id.*

[xxxviii] *Id.* In some cases, even adequately trained healthcare personnel make prevail their personal beliefs upon the health of their patients.

[xxxix] For the purposes of this communication, the term *campesino* is being used in relation to the Peruvian context and refers to the "peasant community" (*comunidad campesina*) of Peru, which includes the Aymara, Quechua and Uro indigenous communities of the Andean region. *See,* General Assembly, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. *The situation of indigenous peoples' rights in Peru with regard to the extractive industries*. July 3, 2014, U.N. Doc. A/HRC/27/52/Add.3, para 4. Indeed, it is particularly worth mentioning that in Peru, as part of the Agrarian Reform that took place in the 1970s, "*the indigenous population was divided in two, adopting the term campesino for the indigenous farmers of the Andes and the term nativo for the indigenous peoples of the Amazon. As a result, most Quechua and Aymara-speaking populations favor the use of the term peasant communities and reject the label "indigenous communities". See*, World Bank. *Latinoamérica Indígena en el Siglo XXI Primera década Latinoamérica Indígena en el Siglo XXI Primera década*. Banco Internacional de Reconstrucción y Fomento/Banco Mundial: Washington. 2015, p. 19, No. 24. Available at: https://documents1.worldbank.org/curated/en/541651467999959129/pdf/Latinoam%C3%A9rica-ind%C3%ADgena-en-el-siglo-XXI-primera-d%C3%A9cada.pdf.

[xl] Ñusta Carranza Ko, *Peru's government forcibly sterilized Indigenous women from 1996 to 2001, the women say. Why?*, WASHINGTON POST (Feb. 19, 2021), https://www.washingtonpost.com/politics/2021/02/19/perus-government-forcibly-sterilized-indigenous-women-1996-2001-why/

[xli] For example, María Mamérita Mestanza Chávez, a peruvian indigenous woman, was harassed and threatened with criminal sanctions for two years by public health officials, if she did not undergo sterilization. Mamérita Mestanza Chávez eventually acquiesced to their coercion and accepted to undergo a tubal ligation on 1998. However, she did not get any medical examination prior to the procedure and did not she receive any medical assistance or information about the consequences and associated risks of the sterilization. Following the procedure, Mamérita Mestanza Chávez developed complications and, after being refused treatment, died nine days later.

[xlii] Christopher M. Westgard et al., *Health service utilization, perspectives, and health-seeking behavior for maternal and child health services in the Amazon of Peru, a mixed-methods study*, 18 INT'L J. OF EQUITY IN HEALTH 155 (2019), https://doi.org/10.1186/s12939-019-1056-5.

[xliii] *Id.*

[xliv] Christopher M. Westgard et al., *Health service utilization, perspectives, and health-seeking behavior for maternal and child health services in the Amazon of Peru, a mixed-methods study*, 18 INT'L J. OF EQUITY IN HEALTH 155 (2019), https://doi.org/10.1186/s12939-019-1056-5.

[xlv] *See*, Defensoría del Pueblo del Perú. La defensa del derecho de los pueblos indígenas amazónicos a una salud intercultural. Serie Informes Defensoriales – Informe N°169, pág. 53. Available at: https://www.defensoria.gob.pe/wp-

content/uploads/2018/05/Informe-Defensorial-N-169.pdf; and Estrada, L. *Voces de Mujeres quechuas y aymaras de Puno. Género y Salud Reproductiva. Manuela Ramos y USAID*. 2003, p. 37 y 38. Quoting: Hammer, Patricia J. Sistematización de autodiagnósticos y estudios complementarios realizados por ReproSalud en las zonas quechua y aymara de Puno. *Informe realizado por encargo del Movimiento Manuela Ramos- ReproSalud. Inédito*. 2001. Available at: https://pdf.usaid.gov/pdf_docs/pnadb090.pdf

[xlvi] *Id.*

[xlvii] Bryan Boggiano, *Indigenous Women's Rights in Peru*, THE BORGEN PROJECT (Oct. 17, 2020), https://borgenproject.org/womens-rights-in-peru/.

[xlviii] Physicians for Human Rights, *Fatal Delays. Maternal mortality in Peru: a human rights approach to safe motherhood*, 2007, at 11. Available at: http://bvs.minsa.gob.pe/local/minsa/929_GRAL1101-1.pdf.

[xlix] Carlos Gomez, *Giving birth upright, with mate – Peru clinics open arms to indigenous women*, UNFPA (Sep. 29, 2016), https://www.unfpa.org/news/giving-birth-upright-mat%C3%A9-%E2%80%93-peru-clinics-open-arms-indigenous-women. Also, report of the NGO Chirapac on OV on indigenour women avalaible at: https://www.ohchr.org/sites/default/files/Documents/Issues/Women/SR/ReproductiveHealthCare/Chirapaq_Peru.pdf. Amnesty international report on maternal Health: Perú. Mujeres pobres y excluidas. La negación del derecho a la salud materno-infantil - Amnistía Internacional (amnesty.org)

[l] A Fact sheet on the case can be found at: ttps://mcusercontent.com/1619605978c501d2e29a3f946/files/92a7665c-9026-5838-eee2-b3ab24374c55/Eulogia_vs_peru.pdf

[li] *See* Nancy Armenta-Paulino et al., *Overview of equity in maternal health care coverage by ethnicity*, 30 EUR. J. OF PUB. HEALTH Supp. 5, (Sep. 30, 2020), https://doi.org/10.1093/eurpub/ckaa165.830.

[lii] Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.150, Doc. No. 39, *Report No. 35/14, Petition 1334-09, Admissibility, Eulogia and her son Sergio, Peru*, ORGANIZATION OF AMERICAN STATES, 2014, para. 7 (detailing the lack of access to healthcare services for indigenous women). Available at: https://www.oas.org/en/iachr/decisions/2014/pead1334-09en.pdf (detailing the lack of access to healthcare services for indigenous women).

[liii] *Eulogia, Hechos del Caso*, CENTRO DE PROMOCIÓN Y DEFENSA DE LOS DERECHOS SEXUALES Y REPRODUCTIVAS (PROMSEX), https://incidenciainternacional.promsex.org/2020/06/23/eulogia/.

[liv] Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.150, Doc. No. 39, *Report No. 35/14, Petition 1334-09, Admissibility, Eulogia and her son Sergio, Peru*, ORGANIZATION OF AMERICAN STATES, 2014, at paras. 8-10. Available at: https://www.oas.org/en/iachr/decisions/2014/pead1334-09en.pdf.

[lv] Ombusdman Office report: Obstetric Violence in Perú. Available at: Violencia-obstétrica.pdf (defensoria.gob.pe)

[lvi] Id. Pag. 74

[lvii] Ombudsman's Office, *Resultados de la supervisión defensorial a los servicios de salud diferenciados para la atención integral a adolescentes*, Informe No. 0011-2018-DP/ANA (2018). Available at: https://www.defensoria.gob.pe/wp-content/uploads/2018/07/Informe-de-Adjuntia-011-2018-DP-ANA.pdf.

[lviii] Notably, in a Ministerial Decree of the Health Ministry for Sexual Violence Survivors care, the Peruvian government emphasized that healthcare providers attending to survivors of sexual violence should ensure that survivors have access to emergency contraception, even if they are not able to use regular oral contraception, and that healthcare workers should administer emergency contraception to survivors (with their consent) within 72 hours of a sexual assault. Ministerial Resolution No. 649-2020-MINSA, August 20, 2020. In addition, the government decreed that for adolescent survivors, permission is not required from a legal guardian in order for healthcare workers to provide the adolescent with emergency contraception. *Id.*

[lix] Jésica León, *Aún hay trabas en entrega de la píldora del día siguiente*, LA REPÚBLICA (Oct. 28, 2019), https://larepublica.pe/sociedad/2019/10/28/anticonceptivos-aun-hay-trabas-en-entrega-de-la-pildora-del-dia-siguiente-violencia-sexual/.

[lx] Ministry of Health (MINSA), *Resolución Ministerial*, at 33, Doc. 649-2020/MINSA (August 6, 2020).

[lxi] For example, in 2017, the emergency contraceptive pill was distributed in only 15 out of the 25 departments in Peru. Press Release No. 243/18, IACHR, *IACHR completes working visit to Peru*, ORG. OF AM. STATES (Nov. 16, 2018), https://www.oas.org/en/iachr/media_center/PReleases/2018/243.asp.

[lxii] Gail Sullivan, *More than one-quarter of morning after-pills in Peru don't* work, WASHINGTON POST (Apr. 21, 2014), https://www.washingtonpost.com/news/morning-mix/wp/2014/04/21/morning-after-disaster-more-than-a-quarter-of-contraceptive-pills-in-peru-dont-work/.

[lxiii] *Id.*

[lxiv] *Peru Reinstates Free Distribution of Emergency Contraception After WHO Asserts that EC Does Not Cause Abortion*, INT'L WOMEN'S HEALTH COALITION (Apr. 22, 2010), https://iwhc.org/2010/04/peru-reinstates-free-distribution-of-emergency-contraception-after-who-asserts-that-ec-does-not-cause-abortion/.

[lxv] Rossina Guerrero, *La última ruta para la distribución gratuita de la anticoncepción oral de emergencia*, PROMSEX (Mar. 3, 2021), https://promsex.org/la-ultima-ruta-para-la-distribucion-gratuita-de-la-anticonceptivo-oral-de-emergencia/.

[lxvi] Cinthya Qquelcca & Ángel Pineda, *Pleno del Tribunal Constitucional debe decidir sentencia definitiva sobre la Anticoncepción Oral de Emergencia (AOE)*, PROMSEX (Apr. 28, 2021), https://promsex.org/pleno-del-tribunal-constitucional-debe-decidir-sentencia-definitiva-sobre-la-anticoncepcion-oral-de-emergencia-aoe-2.

[lxvii] *Id.*

[lxviii] Rossina Guerrero, *La última ruta para la distribución gratuita de la anticoncepción oral de emergencia*, PROMSEX (Mar. 3,

2021), https://promsex.org/la-ultima-ruta-para-la-distribucion-gratuita-de-la-anticonceptivo-oral-de-emergencia/.

[lxix] More information on Marias case can be found at: https://incidenciainternacional.promsex.org/wp-content/uploads/Maria-1.pdf

[lxx] The impact of poor or limited access to education is particularly notable, the highest percentages of pregnant adolescents were girls with only primary education (34%). Save the Children, *Every Last Child Country Spotlight: Peru* (2016), https://resourcecentre.savethechildren.net/node/10045/pdf/peru_spotlight.pdf. The surveys conducted between 2008-2016 and reported in *Accelerating progress toward the reduction of adolescent pregnancy in LAC* (2017) by the Pan American Health Organisation, UNFPA and UNICEF in relation to Bolivia, Colombia, the Dominican Republic, Guyana, Haiti, Honduras, and Peru emphasize that adolescent girls with no education or only primary education were up to 4 times more likely to be pregnant in comparison to girls with secondary or higher education. Available at: https://iris.paho.org/bitstream/handle/10665.2/34493/9789275119761-eng.pdf?sequence=1&isAllowed=y.

[lxxi] Marta Favara et al., *Understanding teenage fertility in Peru: An analysis using longitudinal data* (2020), https://doi.org/10.1111/rode.12648. In comparison of the age, specific fertility rate (ASFR) for 15-19 years was 65 per 1000 in 2015 in Latin American and the Caribbean. Sarah Neal et al., *Trends in adolescent first births in five countries in Latin America and the Caribbean: disaggregated data from demographic and health surveys*, REPROD HEALTH 15, 146 (2018), https://doi.org/10.1186/s12978-018-0578-4.

[lxxii] Vanessa Rojas & Francis Bravo, *Young Lives and Child Frontiers: Experiences of cohabitation, marriage and parenting in Peruvian adolescents and youth*, YOUNG LIVES, July 2020. Available at: https://www.younglives.org.uk/sites/www.younglives.org.uk/files/YL-CountryReport-Peru-Jul20-Proof04.pdf; Marta Favara et al., *Understanding Teenage Fertility, Cohabitation, and Marriage: The Case of Peru*, IZA Discussion Paper No. 10270, IZA INST. OF LABOR ECON., Oct. 2016 (based on a study conducted by Young Lives). Available at: https://www.iza.org/publications/dp/10270/understanding-teenage-fertility-cohabitation-and-marriage-the-case-of-peru. 71% of these pregnancies are unwanted.

[lxxiii] Cristina Puig Borràs & Brenda I. Álvarez Álvarez, *The history of universal access to emergency contraception in Peru: a case of politics deepening inequalities*, 26 REPROD. HEALTH MATTERS, no. 54, Nov. 2018, at 47-50, https://www.tandfonline.com/doi/full/10.1080/09688080.2018.1542913. However this number is likely to be much higher, considering that sexual violence is likely to go underreported and the general culture of impunity in the case of sexual and gender-based violence. Often police and other authority figures do not believe the girls, trivialize their concerns or choose not to take their complaints seriously.

[lxxiv] *Id.*

[lxxv] Mariela Jara, *Shedding Light on Forced Child Pregnancy and Motherhood in Latin America*, IPS NEWS (Jan. 14, 2019), http://www.ipsnews.net/2019/01/shedding-light-forced-child-pregnancy-motherhood-latin-america/ (based on CLADEM 2019 data). *See also* Juan Pablo Casapia, *Teen moms in Peru pinpoint need for sexuality education, health services*, UNFPA (Feb. 19, 2018), https://www.unfpa.org/news/teen-moms-peru-pinpoint-need-sexuality-education-health-services?utm_source=27+February+2018&utm_campaign=2%2F2%2F2017&utm_medium=email (emphasizing the gravity of adolescent pregnancy in Peru); Mariela Jara, *Shedding Light on Forced Child Pregnancy and Motherhood in Latin America*, IPS NEWS (Jan. 14, 2019), http://www.ipsnews.net/2019/01/shedding-light-forced-child-pregnancy-motherhood-latin-america/ (based on CLADEM 2019 data). Generally, it should be noted that global and regional data on pregnancies in girls younger than 15 years is limited. Instead, broader Latin American and Caribbean (LAC) statistics provide helpful contextualization; 2% of women of reproductive age in LAC reported having their first delivery before the age of 15; LAC is noted as the only region in the world with an upward trend in births among girls younger than 15 years. Source: *Adolescent Pregnancy in Latin America and the Caribbean*, WHO / Pan American Health Organisation Technical Brief (August 2020). Available at: https://lac.unfpa.org/sites/default/files/pub-pdf/final_dec_10_approved_policy_brief_design_ch_adolescent.pdf.

[lxxvi] Codigo Penal [C. Pen.] [Penal Code] art. 173 (Peru), http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf.

[lxxvii] Peruvian National Statistics institute. 2020 Report. Available at: https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1832/libro.pdf

[lxxviii] Susana Chávez Alvarado & Elisa Juárez Chávez, *Historias para no olvidar: La violência como factor associado a la muerte materna de adolescentes. Un estudio cualitativo 2012-2014*, CENTRO DE PROMOCIÓN Y DEFENSA DE LOS DERECHOS SEXUALES Y REPRODUCTIVAS (PROMSEX), 2015, at 63. Available at: https://promsex.org/wp-content/uploads/2015/10/HistoriasParaNoOlvidarSChavez.pdf. Among the results of this research: from the number of adolescents who died, four were 15 years old or younger and six were between 16 and 18 years old at the time of death; regarding the causes of death, in three of the cases their deaths were associated with abortion and two were due to indirect causes, reporting one suicide and one died during the puerperium; regarding birth control, only four of them had some type of control; two of the deaths occurred in the first trimester, one in the second, three in the third and two died during the puerperium.

[lxxix] Ximena Casas et al., O'Neill Inst. for Nat'l and Global Health L. & Ibis Reprod. Health, *Stolen lives: A multi-country study on the health effects of forced motherhood on girls 9-14 years old*, PLANNED PARENTHOOD GLOBAL, 2015, at 55-56. Available at: https://www.plannedparenthoodaction.org/uploads/filer_public/db/6d/db6d56cb-e854-44bb-9ab7-15bb7fc147c5/ppfa-stolen-lives-english.pdf.

[lxxx] *See* National Institute of Statistics and Informatics (INEI), *Peru: Situación Social de las Madres Adolescentes*, *2007*, at 13, Mar. 2010. Available at: http://repositorio.minedu.gob.pe/bitstream/handle/20.500.12799/869/504.%20Per%c3%ba%20Situaci%c3%b3n%20social%20de%20las%20madres%20adolescentes%2c%202007.pdf?sequence=1&isAllowed=y.

[lxxxi] Ximena Casas, *They Are Girls, Not Mothers: The Violence of Forcing Motherhood on Young Girls in Latin America. Health and human rights*, 21 HEALTH AND HUM. RTS. J., no. 2, Dec. 2019, 157-167, 159. Available at: https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2469/2019/12/Casas.pdf.

[lxxxii] Save the Children, *Every Last Child Country Spotlight: Peru* (2016), https://resourcecentre.savethechildren.net/node/10045/pdf/peru_spotlight.pdf. *L.C. v Peru*, a case concerning a 13-year old girl who attempted to commit suicide when she became pregnant as a result of sexual abuse by a 34 year old man, provides a direct example of this. As a result of this case, the Committee on the Elimination of Discrimination Against Women recommended that Peru provide reparations of specific compensation for L.C. and that Peru review its legislation restricting therapeutic abortion and criminalizing abortion where pregnancy results from rape or sexual abuse. Available at https://www2.ohchr.org/english/law/docs/CEDAW-C-50-D-22-2009_en.pdf. Peru still has yet to modify its legislation restricting therapeutic abortion and criminalizing abortion where pregnancy results from rape or sexual abuse.

[lxxxiii] Notably, per General Comment No. 36 adopted by the Human Rights Committee, States are required to ensure that girls can fulfill their life plans, such as continuing their education, pursuing a rewarding professional life, and being able to socially engage in their communities. *Id.* at 163-64. S*ee also* Hum. Rts. Comm., *General Comment No. 36: Article 6 (Right to Life)*, U.N. Doc. CCPR/C/GC/36 (2018) (describing the role of dignity in the protection of the right to life).

[lxxxiv] World Health Org., *Figure 3.20, Health at a Glance: Latin America and the Caribbean 2020, Maternal Mortality*, OECD LIBRARY (2019), https://www.oecd-ilibrary.org/sites/a9304593-en/index.html?itemId=/content/component/a9304593-en#figure-d1e17916. By comparison, official data from the Ministry of Health places the maternal mortality rate as of December 2019 at a lower figure of 56.1 per 100,000 live births, but excludes death due to suicide in this figure. To contextualize this, the same data estimated the maternal mortality rate at 60.7 per 100,000 live births in 2016, reducing significantly to 57.9 when not accounting for suicide. It is also worth noting that this official data does not disaggregate deaths caused by complications of unsafe abortions, or indeed appear to account for such deaths at all. Ministry of Health (MINSA), *Boletin Epidemiologico Del Peru*, at 1335, December 2019. Available at: https://www.dge.gob.pe/portal/docs/vigilancia/boletines/2019/52.pdf.

[lxxxv] World Health Org., *Figure 3.20, Health at a Glance: Latin America and the Caribbean 2020, Maternal Mortality*, OECD LIBRARY (2019), https://www.oecd-ilibrary.org/sites/a9304593-en/index.html?itemId=/content/component/a9304593-en#figure-d1e17916. *See also Health in the Americas. Summary: Regional Outlook and Country Profiles*, Scien. & Tech. Publ'n No. 642, PAN AMERICAN HEALTH ORG., 2017, https://iris.paho.org/handle/10665.2/34321.

[lxxxvi] Ministry of Health (MINSA), *Número de muertes maternas anual y hasta la SE 21, 2000-2020*, 2020. Available at: https://www.dge.gob.pe/portal/docs/vigilancia/sala/2020/SE21/mmaterna.pdf.

[lxxxvii] Ximena Casas et al., O'Neill Inst. for Nat'l and Global Health L. & Ibis Reprod. Health, *Stolen lives: A multi-country study on the health effects of forced motherhood on girls 9-14 years old*, PLANNED PARENTHOOD GLOBAL, 2015. Available at: https://www.plannedparenthoodaction.org/uploads/filer_public/db/6d/db6d56cb-e854-44bb-9ab7-15bb7fc147c5/ppfa-stolen-lives-english.pdf. Also see, *Adolescent Pregnancy in Latin America and the Caribbean*, WHO / Pan American Health Organisation Technical Brief (August 2020). Available at: https://lac.unfpa.org/sites/default/files/pub-pdf/final_dec_10_approved_policy_brief_design_ch_adolescent.pdf.

[lxxxviii] Susana Chávez Alvarado & Elisa Juárez Chávez, *Historias para no olvidar: La violência como factor associado a la muerte materna de adolescentes. Un estudio cualitativo 2012-2014*, CENTRO DE PROMOCIÓN Y DEFENSA DE LOS DERECHOS SEXUALES Y REPRODUCTIVAS (PROMSEX), 2015. Available at: https://promsex.org/wp-content/uploads/2015/10/HistoriasParaNoOlvidarSChavez.pdf. Ministry of Health (MINSA), *Muerte materna en el Perú 2001-2011*, 2013. Available at: http://bvs.minsa.gob.pe/local/MINSA/2896.pdf.

[lxxxix] Ministry of Health (MINSA), *Muerte materna en el Perú 2001-2011*, 2013. Available at: http://bvs.minsa.gob.pe/local/MINSA/2896.pdf.

[xc] *Annotated Index of Relevant Conditions In Peru,* Sanctuary for Families, 2016, https://sanctuaryforfamilies.org/wp-content/uploads/2020/12/Annotated-Country-Conditions-Index.docx.

[xci] Sarah Bott et al., *Intimate partner violence in the Americas: a systematic review and reanalysis of national prevalence estimates*, 43 REVISTA PANAM. SALUD PUBLICA 26 (Mar. 20, 2019), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6425989/.

[xcii] Ministry of Women and Vulnerable Populations (MIMP), *Estadísticas del MIMP*, GOB.PE, https://www.mimp.gob.pe/omep/estadisticas-violencia.php. (comparison between statistics of cases of violence against women documented by the CEM in 2014 (43,810) in relation to 2020 (97,926).

[xciii] *Id.*

[xciv] *Id.*

[xcv] Human Rights Watch, *Peru: Events of 2019*, WORLD REPORTS 2020 (2020), https://www.hrw.org/world-report/2020/country-chapters/peru#49dda6.

[xcvi] U.S. Dep't of State, Bureau of Democracy, H.R., and Lab., Country Reports on Human Rights Practices: Peru (2019). Available at: https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/peru/; Immigr. and Refugee Bd. of Can., *Peru: Domestic violence, including femicide; legislations; state protection and support services available to victims (2014-Februrary 2018)*, PER106062.E, REFWORLD (Mar. 13, 2018), https://www.refworld.org/docid/5ad09d424.html.

[xcvii] Ministry of Women and Vulnerable Populations (MIMP), *Estadísticas del MIMP*, GOB.PE, https://www.mimp.gob.pe/omep/estadisticas-violencia.php (statistics for 2019).

[xcviii] *Id.* (statistics for 2018).

[xcix] *Id.* (statistics for 2019).

[c] *Peru: Indicadores de Violencia Familiar y Sexual, 2012-2019*, at 46, INEI, August 2019. Available at:

https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1686/libro.pdf.

[ci] National Observatory on Violence against Women and Family Members, *Forced pregnancy in girls and adolescents under 18 years of age due to rape: Figures of cases attended to in the CEMs*, MINISTRY OF WOMEN AND VULNERABLE POPULATIONS (MIMP) (Oct. 30, 2019), https://observatorioviolencia.pe/wp-content/uploads/2019/10/Embarazo-forzado-ni%C3%B1as-y-adolescentes-menores-de-18-a%C3%B1os-violencia-sexual.pdf.

[cii] Press note: Underwear serves as an excuse to close sexual violence case. In spanish: *a: ropa interior sirve de excusa para archivar denuncia de violencia sexual*, MANO ALZADA (2020), https://manoalzada.pe/feminismos/ica-ropa-interior-sirve-de-excusa-para-archivar-denuncia-de-violencia-sexual#.

[ciii]Promsex. Guerra Vilcapoma, Elida. 2021 Annual Report on the Situation of Human Rights of LGBTI People in Peru Lima, 2022

[civ] Azul Vs, Perú case. Interamerican Court of Human Rights. Avalailable at: seriec_402_esp.pdf (corteidh.or.cr)

[cv] Article No. 37 (1).

[cvi]These include Bill No. 02194/2021-CR: **Gender Identity Law**; Bill No. 1378/2016-CR: **Hate Crimes Law**; Bill No. 1704/2016-CR: **Law that promotes equality before the law and non-discrimination based on sexual orientation, gender identity**; Bill No. 961/2016-CR: **Equal Civil Marriage Law**, among other legislative initiatives.

Through Law No. 30506, the Legislature empowers the Executive to legislate and therefore promotes **DL No. 1323 "Strengthens the fight against femicide, domestic violence, and gender violence**," which proposed to amend Articles No. 46 (mitigating and aggravating circumstances) and No. 323 (crime of discrimination) of the Criminal Code, in order to punish gender violence based on sexual orientation and gender identity of persons, however, with a large majority the Fuerza Popular party voted to repeal Legislative Decree No. 1323 partially. This was observed by the Executive and was returned to the Congress of the Republic, where -until now- the Plenary has not seen it, so although its repeal is at risk, this Decree is still in force due to the active participation of the civil society to prevent it

[cvii] Understood as practices used to change the gender expression, gender identity, and sexual orientation of an LGBTI person

[cviii]Asociación Mas Igualdad Perú." Mental Health Problems, Access to Public and Private Mental Health Services, and Conversion Practices in LGBTIQ+ Persons," November 2019. The type of sampling of the 323 LGBTI persons was non-random and circumstantial, (...) which means that the results cannot be considered generalized to the LGBTI population in the Peruvian territory.

[cix]Op. cit. 1.

[cx] See: https://news.un.org/es/story/2022/02/1504082

[cxi]Ombudsman's Office. Ombudsman Report No. 175. Human rights of LGBTI persons: The need for a public policy for equality in Peru. Lima, 2016, p. 185.

[cxii] Which in many instances takes years.

[cxiii]Promsex. Guerra Vilcapoma, Elida. 2021 Annual Report on the Situation of Human Rights of LGBTI People in Peru Lima, 2022

[cxiv] Prepared by Promsex and conducted through a virtual survey of 321 LGBTI students between 14 and 17 years old

[cxv]PROMSEX (2016) *'National Study on School Climate in Peru: Experience of LGBT adolescents and youth in the school environment.'*

[cxvi]Cáceres, Carlos and Salazar Ximena. "*It was like going to the slaughterhouse every day...*" Homophobic bullying in public educational institutions in Chile, Guatemala and Peru, December 2013.

[cxvii] Platform available at: www.siseve.pe/web/app/index

[cxviii]National Institute of Statistics and Information Technology (INEI). Peru Human Trafficking Statistics 2012-2019. https://www.inei.gob.pe/media/MenuRecursivo/boletines/boletin_trata_de_personas_4.pdf