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Individual NGO Report



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Introduction

1. This contribution is a submission of the Congregation of Our Lady of Charity of the Good Shepherd, a Non-Governmental Organization (NGO) with Special Consultative Status with the Economic and Social Council of the United Nations since 1996, to bring to the UN the concerns of the most vulnerable people especially girls, women and children in situations of human trafficking, prostitution, and migration. The organization is based in 73 countries around the world.

The Organization in Peru

2. The organization has been present in Peru since 1871. The main work is on behalf of women and girls: education, shelters for girls at risk, pregnant teenagers, women victims of gender based violence and human trafficking. We have also a work towards the restitution of rights for adolescents in situations of sexual exploitation and for women in prostitution.

3. Content of the present submission:

I. Follow up of recommendations to the UPR of Peru on 2012

II. Assistance to persons affected by human trafficking.

III. Rights of children and adolescents not to be subjected to sexual exploitation.

IV. Rights of girls and adolescent, mothers and children to receive assistance in CARS (Centers for Residential Assistance).

I. Follow up of recommendations to the UPR of Peru on 2012:

4. The Peruvian State has made progress developing frameworks, plans and programs such as: The National Plan of Action for Childhood and Adolescence 2012-2021; National Strategy of Development and Social Inclusion, “Include to Grow”; Law 30343; the Law Prohibiting the Use of Physical and Humiliating Punishment against children and Adolescents; Strategy for the Prevention and Elimination of Child Labor (ENPETI 2012-2021) still at the pilot level (2016)¹.

5. The Ministry of Woman and Vulnerable Populations (MIMP) also has the National Program Yachay (attention to children and adolescents in street situation) which in the year 2015 received 6,518 children and adolescents, at national level, of which 3,404 were boys and 3,114 were girls. Recently on 31 December 2016, the Legislative Decree² N°1297 was enacted, aiming to protect children and adolescents at risk or without family support, and looking also to facilitate the care of the most vulnerable groups. However, the following data shows current children’s vulnerability.

6. Health³. In 2012 the chronic malnutrition of children under 5 years old was of 18.1% and in 2015 of 14.4%, which is equivalent to a reduction of 3.7 % in four years, reflecting the difficulties that exist to achieve the outcome 2 of the PNAIA (National Plan for Infancy and Adolescence) on 2021, to cut 5% chronic malnutrition in children under 5 years. There is also a

greater percentage of malnutrition in rural areas rather than in urban areas where the government has to pay more attention.

7. Education. The national average of those achieving suitable primary school education is 80.3%, for secondary is 64.8%. This is much lower in the rural area where the percentage is 68.6% for primary school and the 44.6% of secondary school⁴. According to Statistics of the Educational Quality (ESCALE) of the Ministry of Education, the reasons cited for dropping out of school are: economic problems (43.4%), did not want to study (23.6%), by family problems (12.7%), by household chores (12.4%), there is no school (1.9%) and others (6%). The educational level reached by teenage mothers is a concern because it reproduces poverty in their children. This is 37,9%⁵ for primary and 9.6% for secondary⁶.

8. Security and integrity of children and adolescents. 81,3%⁷ of adolescents between 12 to 17 were victims of psychological or physical violence in their homes. 2,527 children and adolescents between 0 to 17 years old were received in 2016⁸. According to the Public Ministry, from 2009 to 2015, 50.1% of victims of human trafficking were children between 13 and 17 years old⁹.

We respectfully recommend that the government:

- Continues to strength work on behalf of children and adolescents through articulation of different governmental programs and plans existing to reach these populations.
- Develops a mechanism to implement the Legislative Decree N° 1297 for the protection of children and adolescents without family support.
- Ensures that adolescent mothers complete their school at all levels.

9. In the year 2015 the Law 303403 was enacted, Law that prohibits the use of the physical and humiliating punishment against children and adolescents. To date, society and some sectors of the State ignore this law and this is causing the continuity of punishments and humiliating treatment of children. The data of ENARES (National Survey on Social Relations) 2015¹⁰ and ENDES (National Demographic Survey and Family Health) 2015 reveal that 20.1% of interviewed women believe that physical punishment is necessary to educate their daughters / sons. It is important that parents are made aware of this law and, above all, that knowledge is provided so that an education without violence is seen as possible.

We respectfully recommend that the government:

- Makes known the Law 303403 that prohibits the use of the physical and humiliating punishment against children and adolescents and organizes training for Judiciary Authorities.
- Creates awareness of the Law through social media, and incorporating also the school association of parents.
- Strengthens the work of tutors in schools to receive complaints of ill-treatments on children.

VIOLENCE AGAINST WOMEN:

10. We welcome efforts of the Peruvian Government to take measures such as: the National Plan for Gender Equality 2012-2017, Law N° 30068 that incorporates criminalization of femicide and the Law N° 30364 - law that prevents, punishes and eradicates violence against women and the members of the family group and its regulations, the Law N° 30314 - law that prevents and punishes the sexual harassment in public spaces, the Law No. 28983-law for equality of opportunities between women and men and the recent enactment of the National Plan against gender-based violence 2016-2021 and the Legislative Decree No. 1323 (that strengthens the fight against femicide, the violence in the family and gender violence) of recent enactment in 2017. However, despite this laws in the survey of ENDES¹¹-2015 it was found that 70.8% of women have suffered some type of violence by their partner.

11. Another form of violence affecting mothers is the failure to enforce maintenance obligations in spite of the fact that there is a court ruling and these partners are deprived of liberty for breach of payment. In December 2016, a total of 2,153¹² men were serving sentences for this according to the National Penitentiary Institute.

12. The absence of a shared information among different State sectors make it difficult to verify the efficiency of these measures. In the year 2016 civil society held two¹³ marches with the slogan “#Ni una Menos” on August 13 in Lima and other regions such as: Cuzco, Tacna, Juliaca, Pisco, Chiclayo, Trujillo, Tarapoto, Bagua y Huanuco¹⁴ and on November 26, as a protest to the mild sentences given to the perpetrators of femicide.

13. According to the Crime Observatory of the MPFN, (Public and Prosecutor Ministry of the Nation) in the period of 2009-2016, 881¹⁵ victims of femicide were registered. Of this 89% were murdered by their partner, former partner or a relative and 10.1% by a known or unknown person. The Public Prosecutor's Office in 2014 registered 130 official complaints, but the Judiciary only registered 29 convictions¹⁶. The same office, in 2015, registered 84 complaints (until August of that year) among 93 victims with 52 convictions¹⁷. Also, according to a report of the Office of the Ombudsman N° 173-2015-DP were given sentences below the legal minimum of fifteen years showing the existing problem of judicial operators in performing the proper classification of these crimes. On the other hand, there still remains a social tolerance in relation to the violence against women. According to ENARES, 2015, 27.9% of the population of 18 years old agrees with the cultural stereotype “the male is dominant and aggressive then he is treating in harsh way women” and 16.4% with the statement “submissive women love to be treated bad¹⁸”.

14. The National Plan against Gender Based Violence, 2009 - 2015 planned to train and sensitize Police officers and Judicial Authorities on Gender-based Violence, but the State has not yet submitted a report on the results of the mentioned Plan. The State enacted in 2016 the Legislative Decree 1268¹⁹ to regulate the disciplinary regime of the National Police of Peru and Annexes MG38 allowing the removal of police members that “Ignore to help promptly any person and as consequence of this, death or serious injury were following”. This measure expected that the police properly addressed complaints avoiding unfortunate outcomes as in the case of two women about whom the report was made who were victims of femicide²⁰.

We respectfully recommend that the government:

- Develops a system of alert for women victims of violence, through a virtual platform that is available for the use of the different sectors of the State: judiciary, health, education, work and Ministry of the Women and to share information on the situation of women.
- Prioritizes the judicial proceedings related to the protection of women and their children.
- Continues creating, at national level, specialized offices and shelters for the attention of women victims of gender based violence.
- Organizes awareness campaign to eradicate stereotypes justifying violence against women.
- Monitors and performs the follow-up to the allegations presented in the Emergency Centers for Women (CEM).

II. Assistance to persons affected by human trafficking.

15. The organization has experience in the care of adolescents and women victims of human trafficking. Rescued women in Madre de Dios, Huancayo, Puno, and Tacna complained about inadequate first services because the location of a shelter. Peru has 3 shelters for teenagers in Lima, one in the Callao Province and another one in Madre de Dios. According to the fourth annual report of progress of the National Plan for childhood and adolescence 2012-2021, during the year 2015 there was a national deficit of spaces to accommodate victims of human trafficking²¹. There are no adequate shelters for adult women or men, with a good quality in services and professional expertise, producing a re victimization of people. Process of reparation, restitution of victims' rights and access to justice are compromised when sentence is pronounced; as it was the case of the Judge Villa Stein ²² which absolved without accusation a person accused of human trafficking.

16. Women report abuses suffered during the rescue by members of the police and, they have to stay overnight in police stations that do not have adequate facilities. In the town Madre de Dios, there are two hostels and one in Lima, which are insufficient. Affected persons are brought to other non-specialized hostels.

17. The Budget in the last years for the implementation of the National Plan of Action against Trafficking in Persons 2011 – 2016, has been reduced. This harms the process of attention and recovery of people affected by human trafficking²³, in the year 2014²⁴ the budget was 0.0025% and in 2015 was 0.0108%. For 2016 it was reduced to 0.0046% of the National Budget and for 2017 to 0.0025%.

We respectfully recommend that the government:

- Creates shelters with specialized staff for persons affected by human trafficking, in collaboration with civil society which has expertise in this field.
- Emphasizes the process of restitution of the rights of the victims and comprehensive health care in order to facilitate their integration in the society.

III. Rights of children and adolescents not to be subjected to sexual exploitation.

18. The problem lies in the existence of a market for the sex with children and adolescents and a society that accepts this fact. A change of mindsets is needed. The State has implemented a mechanism of support and sanction in relation to this problem, such as: the National Plan for Childhood and Adolescence 2012-2021 with its result N° 14 dealing with the problems of the sexual exploitation on children and adolescents, the Yachay National Program, which includes children and adolescents in situation of sexual exploitation, the Law N° 28251 (2004), which punishes with prison terms of 6 years to 12 years crimes related to prostitution, child pornography and sexual tourism involving children and adolescents, an innovation was the article 179A which punishes the client-user.

19. In the year 2017 is promulgated the Legislative Decree N°1323, with the Article 153B-Sexual Exploitation, which creates the offence of sexual exploitation, sanctioning with 10 to 15 years for those who promote sexual exploitation and details other penalties for perpetrators up to 30 years when derived from a situation of trafficking and the victim dies.

20. The grassroots' work of Centers AMMAR²⁵ (Center of Support to Women Maria Agustina Rivas), that form part of the organization whose work is attending teenagers and women in areas of sexual exploitation in Lima and Chimbote, still finds teenagers that are "demanded" by customers, reflecting an acceptability within the society concerning this situation. Information on penalization of clients by this crime²⁶ is non-existent. On the other hand, reports exist that reflect that prostituted among women between 20 to 40 years, have been introduced to this environment of sexual exploitation (in Peru prostitution is regulated since 1910) while still adolescents. They were introduced by a partner, a friend or a relative and they have grown up in environments where they were victims of sexual violence, abandonment and abuse. This has reduced their options for personal development, therefore the support must be extended to women above the age of 18 years.

We respectfully recommend that the government:

- Makes a comprehensive study in mapping the areas with high sexual exploitation of children and adolescents, and to treat them according to their situation (adolescents in sexual exploitation or victims of human trafficking with the purpose of sexual exploitation) and to consider their different process of recovery.
- To create awareness through social media (public and private) about Sexual Exploitation on Children and Adolescents in order to discourage the increase of "clients".

IV. Rights of children and adolescent's mothers to receive assistance in CARS (Centers for Residential Assistance).

21. The Organization has experience in the direction of CARs (Centers for Residential Assistance) in agreement with the State. We see some problems because the early experiences of adolescents with different profiles such as transgressors, those with psychiatric troubles and special needs demands special care for a healthy recovery.

22. In relation to adolescent mothers in the CAR, they receive training and levelling education. However, when they return home the probability of continuing their studies and improving their quality of life is in doubtful because they have to work or take care of children.

23. With the news of the death of a minor²⁷ and rape of other girl²⁸ in shelters of the INABIF (Welfare National Integral Program), the MIMP (Vulnerable Women and Populations Ministry) determined a reorganization of CARs which was also requested by the Ombudsman²⁹. In the official statement, N° 150 of 2010 was mentioned the situation of these shelters and refers about problems existing inside.

We respectfully recommend that the government:

- Implements that CARs have different care services according to diverse profiles of population, such victims of human trafficking, teenagers with special needs, and adolescents consuming psychoactive substances.
- Improves the articulation of the education and labor sectors to provide training and employment opportunities to adolescent mothers, so it is important to develop a post-graduation programme of adolescents and adolescent mothers, which envisages the support in studies, training and attention to their children.
- Allocates budget to care the psychiatric cases through the Comprehensive Health Insurance for children and adolescents.

¹ <http://www.defensoria.gob.pe/blog/el-trabajo-infantil-en-el-peru-avances-y-desafios/>

² <http://www.defensoria.gob.pe/modules/Downloads/prensa/notas/2016/NP-247-16.pdf>

³ Cuarto Informe Anual de Avances del Plan Nacional por la Infancia y Adolescencia 2012-2021, Año 2015 <http://www.mimp.gob.pe/webs/mimp/pnaia/pdf/iv-informe-avances-PNAIA-2015.pdf> ENDES 2015 pág. 24

⁴ Agenda Legislativa pendiente para la niñez y adolescencia en el Perú (2017 - 2021). Defensoría del Pueblo https://www.unicef.org/peru/spanish/Agenda_legislativa_pendiente_por_la_ninez_y_adolescencia_en_el_Peru_2017-2021.pdf Idem pág 24

⁶ ENDES 2015 Cuadro N° 3.13 Perú: Adolescentes (15-19 Años) Que Ya Son Madres o Que Están Embarazadas Por Primera Vez, Según Característica Seleccionada, 2014-2015 pág. 133

⁷ ENDES 2015 https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1356/

⁸ http://www.mimp.gob.pe/files/programas_nacionales/pncvfs/estadistica/boletin_noviembre_2016/BV_Noviembre_2016.pdf

⁹ <http://portal.mpfm.gob.pe/descargas/observatorio/tratadepersonas/20150405.pdf>

¹⁰ Encuesta Nacional de Relaciones Sociales (ENARES) 2015, Instituto Nacional de Estadística e Informática INEI 2015 pag 81

Según resultados de la encuesta 2015, 61,3% de la población de 18 años a más, manifestó estar de acuerdo en que las niñas, niños y adolescentes no deben participar ni estar presentes en conversaciones de adultos; por otra parte, 50,9% se mostró en desacuerdo con el hecho que las niñas, niños y adolescentes no deben opinar cuando hablan los adultos. Respecto al año 2013, la cifra de personas que se mostró en desacuerdo en cuanto a que los menores no deben opinar cuando hablan los adultos se incrementó en 1,3 puntos porcentuales.

¹¹ Obra citada ENDES 2015 Gráfico pág. 358

¹² INFORME ESTADÍSTICO PENITENCIARIO –Diciembre 2016

http://www.inpe.gob.pe/pdf/diciembre_2016.pdf

¹³ <http://diariocorreo.pe/tema-del-dia/niunamenos-el-peru-se-une-contra-violencia-a-la-mujer-691050/>
<https://redaccion.lamula.pe/2015/11/25/25n-asi-fue-la-marcha-en-contra-de-la-violencia-de-la-mujer-fotos/redaccionmulera/>

¹⁴ Ni una menos: marcha también se vivió en diversas regiones del país

<http://www.americatv.com.pe/noticias/actualidad/ni-menos-marcha-tambien-se-vivio-diversas-regiones-pais-n242744>

¹⁶ Femicidio Íntimo en el Perú: Análisis de Expedientes Judiciales (2012-2015)

<http://www.defensoria.gob.pe/modules/Downloads/informes/defensoriales/Informe-Defensorial-N-173-FEMINICIDIO-INTIMO.pdf>

¹⁷ <http://larepublica.pe/sociedad/791950-poder-judicial-impuso-100-condenas-por-el-delito-de-feminicidio>

¹⁸ Encuesta Nacional sobre Relaciones Sociales ENARES 2013 y 2015- INEI pág. 116

http://www.inei.gov.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1390/libro.pdf

²⁰ <http://www.wapa.pe/sociales/2016-12-15-mujer-que-pidio-garantias-para-su-vida-es-asesinada> María

Huamán pidió garantías para su vida y dos días después fue asesinada por su esposo

[http://rpp.pe/peru/arequipa/dan-prision-preventiva-a-sujeto-que-asesino-a-pareja-noticia-](http://rpp.pe/peru/arequipa/dan-prision-preventiva-a-sujeto-que-asesino-a-pareja-noticia-1032663?ns_source=self&ns_mchannel=tema.feminicidio&ns_campaign=content.cronologico&ns_linkname=2)

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[http://elcomercio.pe/sociedad/ayacucho/abogada-fue-asesinada-mes-despues-denunciar-ex-pareja-noticia-](http://elcomercio.pe/sociedad/ayacucho/abogada-fue-asesinada-mes-despues-denunciar-ex-pareja-noticia-1972190?ref=portada_home)

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²¹ Cuarto Informe Anual de Avances del Plan Nacional por la Infancia y Adolescencia 2012-2021, Año 2015, pág., 125

<http://www.mimp.gob.pe/webs/mimp/pnaia/pdf/iv-informe-avances-PNAIA-2015.pdf>

²² CNM: "Caso de Villa Stein se definirá a finales de febrero"

[http://elcomercio.pe/politica/justicia/cnm-caso-javier-villa-stein-se-definira-finales-febrero-noticia-](http://elcomercio.pe/politica/justicia/cnm-caso-javier-villa-stein-se-definira-finales-febrero-noticia-1959760?ref=flujo_tags_12351&ft=nota_1&e=titulo)

1959760?ref=flujo_tags_12351&ft=nota_1&e=titulo

<http://derechoydebate.com/admin/uploads/57fc13cd72370-sentencia-sala-penal-permanente-trata-de-personas.pdf>

²³ Trata de personas: presupuesto del 2017 se reduce en 50%

<http://elcomercio.pe/sociedad/peru/trata-personas-presupuesto-2017-se-reduce-50-noticia-1934712>

²⁵ Centro AMMAR, Centro de Apoyo a la Mujer María Agustina Rivas, Informes de Salidas, Fichas Sociales de Atención y Testimonios de Casos, documentos internos.

²⁶ En Perú no hay ni un encarcelado por explotación sexual de menores

<http://www.capital.com.pe/actualidad/en-peru-no-hay-ni-un-encarcelado-por-explotacion-sexual-de-menores-noticia-1003398>

²⁷ <http://www.mimp.gob.pe/salaprensa/notas-prensa.php?codigo=2249>

²⁸ <http://www.mimp.gob.pe/salaprensa/notas-prensa.php?codigo=2187>

²⁹ <http://www.defensoria.gob.pe/modules/Downloads/documentos/10.-Reorganizacion-del-INABIF-13-10-16.pdf>