Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Peru – 2nd Session – 2008

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National Report

Inclusive education is the plan for the incorporation of people with special educational needs into mainstream education. The ministry of education approved standard for the registration of students with special educational needs into inclusive educational institutions and in centres and programmes for special basic education, promoting this right to education for children with disabilities within the public school system, for public, private and special education.

Compilation of UN Information

In 2006 the Committee on the Rights of the Child (CRC) noted discrepancies between some domestic laws and the Convention. UNICEF welcomed the adoption of laws and decrees on the protection of child rights and the fact that assistance was provided to revise the Children's Code. In 2007, the age of penal responsibility was raised from 12 to 14. However, the provision on “pernicious gangs” (pandillaje pernicoso) still remains valid, contrary to CRC and UNICEF recommendations.

CRC noted with concern that the General Directorate on Children and Adolescents had been downgraded due to the re-structuring of the Ministry of Women and Social Development, and recommended that it be given an adequate mandate to coordinate activities to implement the Convention. UNICEF noted that, in response to CRC’s recommendation, a new Ombudsman’s office specialised in children’s affairs (Defensoría Adjunta para la Niñez y la Adolescencia) was created in 2006.


CRC welcomed the adoption of national plans of action for children and adolescents (2002-2010); on the prevention and eradication of child labour (2005); and on poverty (2004-2006); programmes against sexual and domestic violence (2001); and the launching of the “Juntos” programme aimed at supporting the most disadvantaged families (2005).

CRC regretted that some previous concerns and recommendations were insufficiently or partly addressed.

In 2006, CRC expressed concern that de facto discrimination still exists towards certain vulnerable groups such as children with disabilities, indigenous children, children living in rural and remote areas and those working or living in the streets. CRC welcomed the establishment of the National Council for the Integration of Disabled Persons and sensitisation campaigns, but expressed concern at reportedly limited infrastructure for the care of children with disabilities.

CRC was concerned at widespread domestic violence and child abuse, including sexual abuse, despite recent measures taken in this respect, and recommended the introduction of criminal provisions in this regard. CRC welcomed existing legal provisions to prohibit corporal punishment, but was concerned that it is lawful in the home and still widely practiced as an accepted measure of discipline within the family and at school.

In 2006, CRC welcomed legislative and other measures regarding child labour but remained deeply concerned that hundreds of thousands of children and adolescents are reportedly in the labour market, especially in the informal sector, marginalised from education, and victims of exploitation and abuse. CRC noted with concern frequent violations of legislative provisions protecting children from economic exploitation and that children are exposed to dangerous and/or degrading work. While appreciating the “Educadores de Calle”
programme, CRC expressed concern, as did CESCR in 1997, at the high number of street children and the spread of adolescent violence and street-gangs (pandillas), especially in Lima. CRC requested that street children benefit from recovery and social reintegration services, adequate nutrition, housing, health care and educational opportunities.

CRC in 2006 and CEDAW in 2007 welcomed measures taken to combat sexual exploitation and trafficking of children and women. Nevertheless, CRC remained concerned that a reportedly very high number of children are victims of sexual exploitation and violence, and recommended that trafficking be defined in criminal legislation according to the Palermo Protocol definition. CEDAW called for the full enforcement of anti-trafficking legislation. Both Committees recommended full implementation of the national action plan and other measures to combat trafficking. In 2006, CRC noted with concern that there were almost 5,000 reports of disappearances in the context of cross-border trafficking between 2002 and 2005, 35.3 per cent of which concerned children.

While CRC noted some progress in improving the juvenile justice system, it remained concerned about poor detention conditions, including the lack of recovery and social reintegration programmes.

CRC expressed concern in 2006 about the high degree of poverty in the country, very poor housing and living conditions, as well as limited access to water in rural areas.

CRC reiterated the recommendation of the Special Rapporteur on the right to health that Peru carry out independent, rights-based environmental and social impact assessments prior to setting up all mining or other industrial projects that may have a harmful impact on the right to health of children.

CRC and CERD noted with concern that access to health and health services is inadequate especially in rural and remote areas of the country. The rates of maternal, infant and under-five mortality, despite some improvements, continue to be among the highest in Latin America.

CRC expressed concern at health problems arising from a lack of access to safe drinking water, inadequate sanitation and contamination by extractive industries.

CEDAW was concerned about the low education level of girls and urged Peru to take measures to reduce women’s illiteracy rates and to provide formal and informal education to women, especially in rural areas. CEDAW also recommended strengthening efforts to ensure implementation of free and compulsory primary education. In 2006, CRC welcomed the increase in the completion rate of primary education, but expressed concern about discrepancies in quality and infrastructure between urban and rural schools and public and private schools, inadequate teacher training, including skills for intercultural bilingual education to indigenous communities, and at irregular attendance levels.

While acknowledging Peru’s efforts, CRC and CESCR noted with concern that indigenous communities continue to face serious difficulties in the enjoyment of their economic, social and cultural rights in particular. CRC expressed concern about the lack of recognition of their land rights, pillaging of their resources, inadequate access to basic services, health and education, social exclusion and discrimination.

**Summary of Stakeholders' Information**

The Global Initiative to End All Corporal Punishment of Children (GIEACPC) raised concerns about the legality and use of corporal punishment of children at home, in schools and other institutions. It noted that corporal punishment of children is lawful in the home. It is forbidden in schools but there is no explicit prohibition in law. However, it GIEACPC indicated that in the penal system, corporal punishment of children is unlawful as a sentence for crime but is not explicitly prohibited as a disciplinary measure in penal institutions. There is no explicit prohibition of corporal punishment of children in alternative care settings. GIEACPC indicated that as at February 2007, legislation to prohibit all corporal punishment of children, including in the family, had been drafted by a group of national and international NGOs and supported by the Defensora del Pueblo.

Anti-Slavery International (ASI) indicated that they have documented the use of forced labour in logging, domestic service, trafficking in women and children, as well as the use of very young children in mines. ASI noted that the ILO estimates that 33,000 people are subject to forced labour in logging in the Peruvian Amazon. ASI indicated that the Government has recognised the problem and accepted the ILO figures and findings on methods of recruitment and entrapment. In 2005, the National Inter-Sectoral Commission for the Eradication of Forced Labour was established to address the issue and a National Plan of Action for the Eradication of Forced Labour was adopted. According to ASI, the Government must provide funding for the National Plan through its national budget, make combating forced labour a national priority and ensure the legislative reform. ASI also noted that the National Plan for the Eradication of Child Labour does not include any concrete policies on how to eradicate child labour in mines. ASI indicated that the Committee for the Eradication of Child Labour needs to be supported by the Ministries of Employment and Energy and Mining in order to formulate a joint programme of work, with a dedicated budget and realistic timeline for action.

It is estimated that there are about 300,000 domestic workers in Peru, including about 110,000 under 18, as indicated by ASI. The majority of domestic workers are girls and young women. ASI noted that the Domestic Workers’ Law of 2003 recognises certain rights and benefits for adult domestic workers but remains largely dormant. In the case of children, labour legislation also identifies domestic work as a special form of dependent work. However, there are discrepancies between the Code for Children and Adolescents and the National Plan of Action for Child Labour and Protection of the Adolescent Worker 1996-2000, in aspects such as minimum age and the classifications and risk attached to domestic work. ASI also noted however that factors defining slavery often exist in the case of domestic workers; threat and/or use of violence to control the worker, lack of freedom of movement, inability to leave the job and lack of payment (regular or otherwise).
AI noted that despite the development of a free governmental health programme providing services for poor and marginalised communities - the Comprehensive Health Service - effective health care is not reaching poor and marginalised communities, in particular many women and children in such communities. Research carried out by AI in 2005, revealed a number of economic, cultural and social barriers to accessing maternal and infant health care by poor and marginalised communities. The death of women and children in rural areas remains worryingly high. In response to calls made by AI in 2006 to the Government, to develop and implement a comprehensive plan to end all forms of discrimination within the health system against women and children on the basis of their economic, social and cultural status, the Ministry of Health responded in April 2007 that: guidelines have been issued on the rights of users to access information on the right to health and the provision of health care services; training programmes for health care professionals have been initiated; steps have been taken to increase the number of people from marginalised communities registered to receive special health care under the Comprehensive Health Service; and a National Directive was issued by the Ministry of Health reaffirming that although institutional childbirth should be encouraged, there should be no sanctions for women who give birth outside health centres, such as fining or withholding of live birth certificates. AI urged the authorities to establish mechanisms to monitor, evaluate and report on the implementation of these directives to ensure access to health care for women and children in marginalised communities and to reduce maternal and infant mortality. Concerns regarding lack of access to health services and medicines for poor/marginalised communities were also raised by FIDH-APRODEH-CEDAL in their joint submission.

Earth justice and the Inter-American Association for Environmental Defense (EJAIDA) expressed concern about the situation of more than 30,000 residents of La Oroya, Peru, a mining town in the Peruvian Andes, due to excessive toxic contamination generated by a multi-metal smelter operating within the city boundaries. Thousands of the victims of this contamination are children and women of childbearing age, who suffer greater physical harm, and in the case of many children, permanent physical impairment, from the daily exposure to the toxic contamination. EJ-AIDA indicated that the case was brought before the Inter-American Commission on Human Rights (IACHR) and in August 2007, the IACHR asked the State to implement immediate precautionary measures to protect the population, but these have yet to be implemented.

**Final Report**

Peru made no specific reference to children’s rights in this section of the report.

(ii) Interactive dialogue and responses by the State under Review

- While Portugal noted that in 2006, CRC welcomed Peru’s measures to combat child labour, Portugal expressed concern that hundreds and thousands of children and adolescents reportedly remain in the labour market, marginalised from education and subject to exploitation and abuse.

- Japan referred to reports of high rates of child labour, as indicated by UNICEF, while also noting the efforts made to tackle the issue through its National Plan for the Eradication of Child Labour, and requested more information on planned measures to address the issue. Japan also noted recommendations made to Peru by the Committee on the Rights of the Child and CEDAW to implement its national action plan and to take measures to combat trafficking, and requested elaboration on the current status of Peru's efforts regarding this issue.

- Slovenia expressed concern about the lack of access to health facilities for poor and marginalised communities, in particular women and children, and requested information about the steps undertaken to secure such access.

- Regarding the rights of children, and despite progress made by the National Plan to eliminate child labour, Italy expressed concern at the abusive working conditions in which thousands of children and adolescents find themselves. Italy recommended that in accordance with the conclusions adopted in 2006 by the Committee on the Rights of the Child, Peru strengthen its efforts to stop child labour and promote the social reintegration and education of child and adolescent victims of such abuses.

- Brazil enquired about main steps taken in the promotion of the rights of the child.

- On the problem of identity documents, Peru stated that one of the major problems of exclusion (which is also related to terrorist actions in the past) is the lack of a document of legal identity; a significant number of persons, including minors, do not have a birth registration document or a national identity card. One of Peru's priorities is therefore to guarantee the right to a name and identity for all persons, a legal right recognised in the Constitution.

**Conclusion and Recommendations**

In the course of the discussion, the following recommendations were made to Peru:

- In accordance with the conclusions adopted by the Committee on the Rights of the Child in 2006, measures should be increased to stop child labour and to promote social reintegration of child and adolescent victims of exploitation (Italy);