

Summary of the Alternative Report on the situation of Peru for the Committee on the Elimination of Racial Discrimination (CERD)

This report was prepared by the Institute of Democracy and Human Rights of the Pontifical Catholic University of Peru (IDEHPUCP) with the objective of presenting complementary information related to matters of interest to the Committee on the Elimination of Racial Discrimination (CERD). The methodology used includes the revision of current regulations, documents produced by civil society and the making of public information requests to state entities. The report is structured around three themes: the situation of struggle against racism and racial discrimination; the challenges faced by migrants in accessing health and education; and the problem of forced labor. Finally, recommendations made from the analysis of the aforementioned topics are presented.

I. Fight against racism and racial discrimination

Racism and racial discrimination are problems that are deeply rooted in Peruvian society. Currently, Peru does not have a National Plan against Discrimination, and the National Human Rights Plan 2018-2021 does not have the elimination of racial discrimination as its specific objective. The Peruvian State signed the Inter-American Convention against all forms of discrimination and intolerance and the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance in 2016, but it has not ratified either of these instruments yet.

Despite this, there are advances such as the Platform "Alert against racism", which informs and interacts with citizens to face racism, and discrimination, and the "Platform against discrimination", which offers the possibility of denouncing acts of discrimination. However, more than two years after this last platform's launch, it has not yet been implemented. Also, sectors of the population maintain racist practices in their programs and products. For example, the Peruvian film "La Paisana Jacinta" promotes ethno-racial stereotypes about Peruvian Andean women and has previously been a concern of CERD, and there is no knowledge of state institutions taking other actions in this regard.

II. Situation of the migrants, refugees and applicants of the refugee condition with regard to the rights to health and education

The New Migration Law of 2017 establishes that the State must guarantee, under equal conditions, the protection and exercise of the rights of foreigners. However, there are still challenges in accessing health and education services, especially for refugees, asylum seekers and the Venezuelan population with the "temporary stay permit" (PTP). There is an urgent

need for the State to implement migratory policies that allow migrants to effectively exercise economic, social and cultural rights, even more taking into account the migratory flow that the country experiences.

In the case of health services, in Peru there are several types of public health services conditioned on the criteria of being a formal worker or according to income level (SIS, which is directed to the most vulnerable population in the country). In order to access the SIS, it is necessary to present the national identity document or the immigration card, therefore, applicants for refugee status are prevented from accessing this system because they do not have any of these documents. Although some institutions have implemented measures to guide this population, this is insufficient because the underlying problem is not solved: to access a system such as the SIS, they are required to present a document that they do not possess. Venezuelans with PTP also face difficulties in accessing health, as they do not have the documents established for the standard to access the SIS. In addition, the rule that regulates the PPT does not expressly enable access to health services.

Regarding educational services, to register a person to an educational institution, you must present your birth certificate, national identity document or passport. However, the passport or the birth certificate are not documents with which they are required to apply for refugee and refugee status, which makes it difficult for children and adolescents in this condition to access education. A similar problem occurs with Venezuelans with PTP since the norm that regulates the PPT also does not expressly enable access to educational services.

III. Forced labor

The problem of forced labor in Peru remains complex and alarming. The main obstacle in the fight to eradicate this phenomenon within the State lies in the lack of clear information about its seriousness and scope.

3.1. National Plan for the Fight against Forced Labor 2013-2017

In 2013, the National Plan for the Fight against Forced Labor 2013-2017 (PNLCTF) was approved. However, although the PNLCTF recognized that a main problem is the lack of systematized information and the weakness of institutional mechanisms to account for the real situation of forced labor in the country, considering as one of its objectives to have a baseline study to 2014, to date there is no information in that regard. On the other hand, several of the strategic actions included in the PNLCTF have not been carried out within the established terms, throughout the 4 years of the Plan's validity. In a similar sense, the State has not complied with carrying out sufficient training so that the actors involved in detecting this problem and responding to it can really do so. Finally, it highlights the absence of a closing report or document for evaluating compliance with the objectives set out in the PNLCTF.

3.2. National Commission for the Fight against Forced Labor

In 2007, the National Commission for the Fight against Forced Labor (CNLCTF) was created as a space for inter-sectoral coordination among the various actors that carry out activities for the prevention and eradication of forced labor, with the aim of articulating policies and actions at the national level. The CNLCTF was responsible for the preparation and approval of the PNLCTF, as well as the Inter-sectoral Protocol against Forced Labor. However, apart from these specific instruments, the CNLCTF has not taken concrete actions to implement the tasks

envisaged in the Plan or the Protocol. On the contrary, it does not even have a timetable of activities and does not really work as a space for articulation at a national level.

3.3. Approval of Legislative Decree No. 1323

In 2017, Legislative Decree No. 1323 was approved, whereby forced labor was classified as an offense in the Criminal Code, thereby overcoming the previous regulation that very generally regulated crimes against freedom to work. Despite this, it is still pending that the State make public information about the number of complaints it has received linked to this crime and the processes initiated in this regard.

IV. Recommendations

Fight against racism and racial discrimination

1. Adopt a National Plan to Combat Discrimination, establishing clear objectives and mechanisms for its follow-up.
2. Accelerate the ratification process of the Inter-American Convention against all forms of discrimination and intolerance and the Inter-American Convention against Racism.
3. Strengthen actions for the implementation of the Platform against Discrimination.
4. Continue carrying out actions to eliminate the racial stereotypes present in characters such as "La Paisana Jacinta".

Right to health and education of migrants, refugees and refugee claimants

5. Review the regulations governing access to the SIS to guarantee applicants for refugee status and Venezuelans with PTP the effective enjoyment of their right to health.
6. Review the regulations regarding the enrollment of students to ensure that refugees, asylum seekers and Venezuelans with PTP can access education.
7. Review the regulations related to PTP so that it expressly allows access to health and education of its beneficiaries.

Forced labor

8. Complete and disseminate the results of a diagnosis that provides official information regarding the severity and scope of forced labor in Peru.
9. Design a new National Plan for the Fight against Forced Labor that establishes optimistic but achievable objectives, and efficient strategic actions that allow achieving these objectives within the foreseen periods.
10. Ensure that the CNLCTF really functions as a space for articulation between the actors involved in the eradication of forced labor, where it is facilitated, among other aspects, that the serious cases identified in the framework of the inspections undertaken, can be remitted to the Public Ministry for its judicialization.