



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

Collective Rights of Indigenous Peoples

This report was prepared by the Institute of Democracy and Human Rights of the Pontifical Catholic University of Peru (IDEHPUCP), EarthRights International and the Institute of the Common Good (members of the Working Group on Indigenous Peoples of the National Coordinator of Human Rights) 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 six themes: right to identity, land and territory of indigenous people, implementation and application of prior consultation, indigenous people in voluntary isolation or in initial contact, access and administration to justice, and education rights.

I. Right to identity

In 2017, the National Censuses were conducted in which an ethnic self-identification question was included for the first time, however the final results of these censuses are not yet available. On the other hand, there is no information about the number of people without identification documents in districts with native or peasant communities. Despite this, there are 302 offices implemented with the Civil Bilingual Registry, which have as main objective to provide greater facilities to people who have a mother tongue other than the Spanish language. These offices are distributed in slightly more than 50% of the departments of Peru and contemplate only 7 languages other than Spanish. In the Judicial Branch, there are still justice operators who are unaware of the content of indigenous peoples' right to identity.

II. Land and territory of indigenous peoples

In recent years, there has been a progressive weakening of the legal mechanisms that protect the lands and territories of peasant and native communities. During the last two governments, regulations were approved that allowed accelerating the procedures for granting mining concessions in communal territories, easing administrative sanctions for environmental damages

and establishing new forms of land expropriation. As a consequence of these regulations, lands of possession and ownership of native and peasant communities are being disposed of.

III. Implementation and application of prior consultation

Since 2011, the State has internally implemented the right to prior consultation through Law No. 29785 and its Regulations. Although the Executive has made progress in the regulations on this matter, a prior consultation process is missing as part of the procedure for approving laws from the Peruvian Congress, in order to guarantee collective rights for indigenous peoples. In processes linked to extractive activities, operational decisions have been consulted, excluding those that are more relevant and that may affect the rights of indigenous peoples. In addition, difficulties still arise in relation to extractive projects that were not consulted despite the entry into force of ILO Convention No. 169. Another important aspect is the progressive weakening of the legal mechanisms that protect the lands and territories of the peasant and native communities, especially in the last five years.

IV. Indigenous peoples in voluntary isolation or in initial contact

Peru is one of the countries with the highest number of indigenous peoples in voluntary isolation or initial contact (PIACI) in the region. Currently, there is no national plan in this regard. On the other hand, the Law No. 30723 allows any road construction project in Ucayali to be carried out, which endangers declared indigenous reserves to protect the PIACI. In addition, despite the fact that 4 indigenous reserves were created to protect certain PIACIs, the review of requests for the establishment of 5 other indigenous reserves is still pending. Finally, there is a public health crisis of the Yora / Nahua people of the Kugapakori Nahua Nanti Territorial Reserve.

V. Access and administration to justice

In 2016, the Peruvian Judicial Branch implemented for the Superior Courts of Justice the Search Module of the "Registry of interpreters of indigenous or native languages", where only 26 interpreters are currently registered at a national level, distributed in just 7 judicial districts. In 2017, Legislative Decree No. 1342 was promulgated, which aims to facilitate access to the content of jurisdictional decisions at all levels. Lastly, it also highlights the work of the National Office of Justice for Peace and Indigenous Justice, which has among its strategic axes the strengthening of peace justice, coordination of information and training activities on the rights of indigenous peoples, as well as on interculturality and legal pluralism.

VI. Education rights

Currently, only 23.6% of indigenous children and adolescents receive educational services with bilingual intercultural education at the primary level of regular basic education; 67.2% of indigenous children who speak native languages finish the primary level in a timely manner; and, 52% of indigenous adolescents who speak native languages finish the secondary level in a timely manner. On the other hand, the Peruvian Constitutional Court has recently declared an unconstitutional state of affairs in the case of availability and accessibility to education for people

living in extreme poverty in rural areas, a situation that especially affects people in extreme poverty, among which there is a high index of indigenous population.

VII. Recommendations

1. Speed up and strengthen the procedure for updating and systematizing the statistical information of this population.
2. Review the regulations that endanger the exercise of the rights of indigenous peoples over their lands and territories.
3. Create a registry and an official cadaster of peasant communities to strengthen the protection of their collective rights.
4. Adopt the necessary measures to ensure that legislative measures that affect indigenous peoples may be subject to prior consultation.
5. Strengthen the application of consultation processes in extractive matters, so that these are carried out effectively, thereby guaranteeing this right.
6. Approve a National Plan on PIACI and accelerate the approval of the national policy on the matter.
7. Review Law No. 30723 to guarantee the effective protection of the PIACI.
8. Accelerate the review of requests for the establishment of indigenous reservations and carry out strengthening actions for the protection of these and of the territorial reserves.
9. Strengthen the protection of the right of access to justice for indigenous peoples, increasing the number of interpreters and public defenders with command of indigenous or native languages, creating a register of justice operators who are in charge of them, increasing the number of public defenders specializing in indigenous issues and strengthening actions for the application of an intercultural approach in judicial processes.
10. Strengthen the protection of the right to education of indigenous peoples, effectively guaranteeing their accessibility, availability, quality and adaptability.