

HUMAN
RIGHTS
WATCH

Submission on the combined seventh and eighth periodic report of Peru to the United Nations Committee on the Elimination of Discrimination against Women

June 13, 2014

We write in advance of the Committee on the Elimination of Discrimination Against Women's upcoming review of Peru to highlight areas of concern regarding the Peruvian government's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This submission focuses specifically on violations of the right to health, which are inconsistent with Article 12 of the Convention.

This submission is based on the Human Rights Watch report on sexual and reproductive health and rights in Peru published in 2008, "My Rights, and My Right to Know: Lack of Access to Therapeutic Abortion in Peru," as well as ongoing monitoring of human rights in Peru. Recent consultations with women's rights groups indicate the findings remain relevant and accurate, despite having been completed 6 years ago.

Abortion is a crime in Peru, except when a pregnancy endangers a woman's life or will have a grave and permanent negative impact on her health so that an abortion is necessary to safeguard her rights. In the 2008 report, Human Rights Watch documented the impact of the absence of a national protocol or technical guide on abortions to preserve the health or life of women and girls in Peru. We interviewed health care providers, individual women, and officials, and found that, despite the removal in 1924 of criminal penalties for abortions when a woman's health or life are at risk, the absence of a national protocol or guide created normative vacuums in the health system that made access to legal abortion services difficult or impossible, in clear violation of national and international law.

In our report, we found that the lack of information on the exemption from criminal penalties for abortions to preserve women's health or life and the absence of clear eligibility guidelines created a barrier for individuals seeking these services. As a result, women and adolescents we interviewed in Peru said they turned to unsafe and illegal procedures that could endanger their lives and health. Moreover, health care practitioners told us that they were reluctant or unwilling to perform legal abortion procedures without greater clarity from an official protocol. We found

that some doctors failed to provide their patients with adequate medical treatment because they feared prosecution or other sanctioning due to unpredictable administrative approval procedures and confusion about the legal exceptions to the criminalization of abortion.

Since 2008, research by experts and organizations working on health care and women's rights in Peru has shown that the absence of a national protocol or technical guide continues to have a negative impact on women and girls in Peru. Several organizations specializing in health or rights are calling for the adoption of a national guide (in some cases referring to the document as a "protocol," but referring to the same content), including the Medical College of Peru. The Peruvian Society of Obstetrics and Gynecology has expressed the need for a guide or protocol in various statements since 2003. Eleven professional schools in the Arequipa region, led by the Bar Association, made similar statements in 2009. The Human Rights Ombudsman has also made public statements calling for a guide or protocol since 2005. In 2013, the Ministry of Women and Vulnerable Populations and the Ministry of Justice and Human Rights released technical reports signaling the need for and the constitutional obligation the state had to provide these health services and to approve the guide.

On March 14, 2014, the Minister of Health Midori Musme Cristina De Habich Rospigliosi made a public statement to Congress and to the press that the ministry will adopt a national technical guide on legal abortion to save the life or preserve the health of a pregnant woman by the end of June 2014. At the time of writing this letter, the guide had not been adopted. Should they adopt the guide, the Peruvian government will be taking an important step toward ensuring that women's health and rights are protected.

Over the past seven years, Human Rights Watch has published several reports on Latin American and Caribbean countries focusing on the impact of laws and practices that restrict women's access to comprehensive reproductive health services, including safe and legal abortion. We have consistently found that excessive restrictions on accessing abortion create an environment where women turn to unsafe and clandestine procedures that can threaten their health and lives. We have also found that clear protocols and guides are extremely important for ensuring that health care professionals, government officials, and individual women understand the criteria and processes for accessing legal abortion services.

The United Nations Human Rights Committee in the 2005 case *K.L. v. Peru* concluded that Peru needed to provide clear national protocols for when abortions may be performed legally. And, as is well known by the esteemed members of this committee, the Committee on the Elimination of All Forms of Discrimination against Women recommended in the 2011 case of *L.C. v. Peru* that the state party take measures towards the adoption of a guideline or protocol to ensure that health services are available and accessible in public facilities.

Human Rights Watch joins with Peruvian organizations in urging the Committee on the Elimination of All Forms of Discrimination against Women to once again call on the Peruvian government to adopt a guide or protocol that has clear procedures to ensure that women can access legal abortions without delay.

In your upcoming Committee review of Peru on July 1 of this year, **Human Rights Watch encourages the Committee to ask the State party questions about and recommend that the State party fully implement the following:**

- *The timeline for the adoption of the guide on legal abortion in the case of danger to the life or health of a woman;*
- *The plan for how Peru will train medical professionals about the guide;*
- *Steps the government of Peru will take to ensure the implementation of the guide;*
- *Efforts Peru will make to remove other barriers that prevent women and girls from accessing safe and legal abortion when their life or health is in danger.*

We hope you will find these comments relevant to your examination of the Peruvian government's compliance with the Convention, and would welcome an opportunity to discuss them further with you.