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Peru’s Human Rights Protection Plan Overlooks LGBTI Community

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Peru’s 2014-2016 National Human Rights Plan, approved July 5, has been harshly criticized for not including measures to protect vulnerable sectors such as the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community and domestic workers.

Minister of Justice and Human Rights Daniel Figallo maintained the plan incorporates many special-interest initiatives and prioritizes a series of actions for developing and implementing maternal and mental-health projects to allow better access to health services, education, and basic services for children, women, indigenous people, Afro-Peruvians, and persons with HIV or tuberculosis, particularly those living in rural mountainous or jungle areas.

"It is a tool for political and social control that the executive is establishing so that all 18 ministries may include a fundamental human rights focus when developing their action plans," said José Ávila, vice minister of human rights and judicial access.

Several public and private groups, government and nongovernmental agencies, members of the Consejo Nacional de Derechos Humanos (CNDH), as well as professionals and the general public participated in some 21 regional hearings to work on the Plan Nacional de Derechos Humanos (PNDH). The hearings included discussions related to specific human rights issues to be used as a baseline at PNDH meetings in line with each region’s cultural, historical, and geographical reality.

Promoting a culture of human rights

This is the second time Peru has created a PNDH. The first one, lasting from 2006 to 2010, focused its guidelines and activities on adopting legal reforms as well as measures to consolidate democratic institutions. The new plan includes four strategic guidelines: promoting a culture of human rights in Peru; designing and strengthening public policy to promote and protect civil, political, economic, social, cultural, and environmental rights; designing and implementing policies to protect vulnerable groups; and strengthening the domestic legal system by implementing international instruments to promote and protect human rights.

"The prioritization of public policies contributes to the development of our democracy," a PNDH document states. "The importance of public policies permits resources to be channeled to those who most need them, helping to generate citizenship. That’s why implementing this PNDH will connect various central agencies with local and regional governments based on our country’s decentralization process."

The PNDH includes coordinated actions to strengthen mechanisms for access to justice, reduce childhood anemia and chronic malnutrition, create aid programs for the Afro-Peruvian population, reduce violence against women, and prevent social strife. It also aims to develop a national plan for human rights education, a platform for receiving discrimination complaints through the Comisión Nacional Contra la Discriminación (CONACOD) with the participation of the public defender.
**Problems continue for some**

In a July 10 communiqué addressed to the Ministerio de Justicia y Derechos Humanos, Defensor del Pueblo Eduardo Vega Luna said that the PNDH does not cover the LGBTI population or domestic workers or respond to the principal demands of other vulnerable groups such as the victims of terrorism, people living with HIV-AIDS or tuberculosis, and immigrants.

"It’s a positive thing that the document contains specific actions to promote a culture of respect for human rights at all levels of government—central, regional, and local," Vega Luna said. "With the desire with which the country counts on a PNDH that deals with issues identified by all those who have contributed to this process," it is possible to recommend the incorporation of key issues.

Vega Luna expressed concern that the PNDH did not mention the situation of persons with a distinct sexual orientation and gender identity or domestic workers nor did it mention the need for specific policies to protect them. He mentioned the need to ratify the International Labour Organization's Convention 189 that deals with domestic workers.

**Reparations for victims of political violence**

Vega also said that the PNDH left out the principal demands for justice and reparations for, and remembrance of, victims of violence in the last two decades of the 20th century. "Despite the system’s demonstrated limitations in investigating and sanctioning serious human rights abuses, measures to compensate such problems—strengthening agencies to deal with the problem and creating victim- and witness-protection programs, for example—have not been incorporated."

Not recognized, Vega said, "is the urgency to reopen the Registro Único de Víctimas (RUV), as well as increasing the amount of compensation for victims who have been certified as suffering from multiple incidents and establishing the right to a reparations program in education (NotiSur, April 3, 2009).

On July 10, the LGTBI community gathered in front of the Ministerio de Justicia to protest the PNDH. Giovanni Infante, director of Lima’s Movimiento Homosexual de Lima (MHOL), listed a series of recent actions that demonstrated "a policy of systematic denial that lesbians, transvestites, gays, and bisexuals are members of Peruvian society."

Congressional Deputy Carlos Bruce Montes de Oca said that the current government is the most homophobic in the country’s history. "The plan presented includes human rights for people with disabilities, older adults, children, adolescents, native peoples, but has completely eliminated the chapter on human rights for gays and lesbians when the new plan should have covered things not included in the last one.

Bruce added that the previous plan had a chapter "that, although many considered it incomplete," did recognize rights for gays and lesbians, "persons everyone recognizes as Peruvian citizens."

**Non-marital same-sex civil unions considered**

Last September, Bruce presented a bill to establish a non-marital civil union for same-sex couples to recognize the civil rights of homosexuals and end existing discrimination against this sector of the population (NotiSur, Oct. 25, 2013). The proposed legislation is now awaiting discussion in Congress.
Nevertheless, Minister of Justice Figallo said, "No one is excluded" under the plan. To the contrary, an emphasis has been given to a set of measures that would protect all minorities that suffer discrimination, including those discriminated against on the basis of sexual preference. "There is widespread discrimination at various levels, and we're working to combat that," Figallo said in statements to Peruvian television in which he invited the homosexual community to help root out discrimination nationally.

Lawyer Carlos Rivera, meanwhile, said it was lamentable that, in his July 28 message to the nation, President Ollanta Humala nearly dropped the issue of human rights and simply announced more resources for the Plan Nacional de Reparaciones.

Humala announced that the government would continue payments under the Plan Integral de Reparaciones (PIR), which provides resources for victims of the political violence that ravaged the country between 1980 and 2000 (NotiSur, July 30, 2010). He also pointed out that a July 28 decree earmarked nearly 59 million soles (approximately US$19.8 million) for economic reparations that allot 10,000 soles (US$3,597) for each victim who was disappeared, killed, or affected by sexual violation or disability.

Vice minister Ávila said the government expects to complete 100% of the individual economic reparations for the victims of political violence by the end of this year.

Rivera said that Humala should also comment on the plan to find out what happened to the approximately 16,000 disappeared in the domestic armed conflict. "The state is committed to developing a national search plan for these persons, and as a result we are going to provide a specific quantity of money," he said. "This would have been very important for him to mention."

President of the Coordinadora Nacional de Víctimas de la Violencia Política (CONAVIP) Luis Aronés lamented that President Humala has not modified the Decreto Supremo 051 approved by the administration of former President Alan García (2006-2011) 40 days before he left office, leaving out of the RUV those who did not sign up before December 2011 (NotiSur, Aug. 26, 2011).

"Before leaving office, APRA enacted DS 051 that closed the Registro Único de Víctimas, and, although we have asked this government for three years to modify it, nothing has been done so far," Aronés told La República.

Those affected by domestic violence have also asked that the amount of compensation be increased and that there be clear procedure for payments to be made to those who lost more than one family member. The RUV says that 5,158 people are in this situation.

In a letter to the Minister of Justice, Vega Luna said for people living with HIV/AIDS and tuberculosis it is important that the PNDH consolidate its goals to ensure supply and delivery of medicines. Regarding immigration policy, he said that the government has considered measures to protect migrants and their families but said it is important to include protective measures and protocols to guarantee the rights of refugees and their families and to incorporate them into society.

For many, political will and the administration’s approach to human rights are not consistent with the inclusive policy the Humala administration says it wants to achieve.