



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Concluding observations on the eighteenth to twenty-first  
periodic reports of Peru**

**Addendum**

**Information received from Peru on follow-up to the  
concluding observations\***

[Date received: 4 March 2016]

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\* The present document is being issued without formal editing.



## **Replies to the concluding observations of the Committee on the Elimination of Racial Discrimination on the eighteenth to twenty-first periodic reports of Peru**

1. The Government of Peru submits the following information in response to the concluding observations issued on 25 September 2014 by the Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee), in compliance with article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, which has been ratified by Peru, where it entered into force on 29 September 1971.

2. In accordance with article 9 (1) of the Convention and rule 65 of its amended rules of procedure, the Committee requested Peru to provide information, within one year of the adoption of the concluding observations, on its follow-up to the recommendations contained in paragraphs 15, 22, 23 and 24.

3. This document is the result of a multisectoral consultation process led by the Ministry of Justice and Human Rights, in which several State bodies provided information; the Office of the President of the Council of Ministers, the Ministry of Education, the Ministry of the Interior, the Ministry of Culture, the Public Prosecution Service, the Ministry of Transport and Communications, the National Office for Dialogue and Sustainability, the High Commissioner for the Formalization of Mining, the Prohibition of Illegal Mining and Environmental Remediation, and the General Directorate of the Public Defence Service and Access to Justice participated directly in the process.

### **Information requested in the concluding observations**

#### **1. Paragraph 15: Indigenous peoples and exploitation of natural resources**

4. **In the light of general recommendation No. 23 (1997) on the rights of indigenous peoples and the recommendations of the Special Rapporteur on the rights of indigenous peoples in his report on the situation of indigenous peoples' rights in Peru with regard to the extractive industries (A/HRC/27/52/Add.3), the Committee urges the State party to:**

(a) **Redouble its efforts to strengthen the legislative and administrative framework for the protection of indigenous peoples with regard to the exploitation of natural resources;**

(b) **Guarantee the full and effective enjoyment by indigenous peoples of their rights over the lands, territories and natural resources that they occupy or use, by such means as the appropriate issuance of deeds of title;**

(c) **Ensure the effective implementation of protection measures and safeguards against environmental impacts;**

(d) **Guarantee that indigenous peoples affected by natural resource activities in their territories receive compensation for damage or loss suffered and participate in the benefits arising out of such activities.**

5. The Directorate of Indigenous Policies within the Ministry of Culture has drawn up draft guidelines for recognizing and registering the legal status of members of native communities in regional and national registers, pursuant to Decree Law No. 22,175 on Rural Communities and Agrarian Development of the Jungle and Jungle Rim, and to its regulations, with the aim of standardizing processes for recognizing native communities.

6. This document is the result of a joint effort involving national indigenous Amazonian organizations, including the Interethnic Association of Peruvian Amazonia and the Confederation of Amazonian Nationalities of Peru.

7. Since 2012, the process of formalizing small-scale and artisanal mining has been developed at the national level by the General Directorate for the Formalization of Mining within the Ministry of Energy and Mining, and by regional directorates or offices of energy and mining. The process was launched with a declaration of commitment by small-scale miners to standardize and formalize their activities.

8. The process is currently at the restructuring stage, in accordance with Supreme Decree No. 029-2014-PCM, which approves the strategy for the restructuring of small-scale and artisanal mining. This stage involves the Restructuring Register, which contains details of small-scale and artisanal miners who have made a declaration of commitment, and the Single Taxpayer Register kept by the National Customs and Tax Authority.

9. Furthermore, Supreme Decree No. 003-2014-PCM approves the National Strategy to Prohibit Illegal Mining with the aims of eradicating the main pockets of illegal mining and of significantly reducing related offences, including human trafficking, tax evasion and causing damage to the environment, throughout the country. To these ends, the Office of the President of the Council of Ministers, through the High Commissioner for the Formalization of Mining, the Prohibition of Illegal Mining and Environmental Remediation, is responsible, along with various State agents, for intersectoral and intergovernmental coordination and monitoring in the areas of action on the eradication of illegal mining, oversight and inspection, the consolidation of formalization, the remediation of affected areas, social care and quality of life.

10. As part of environmental remediation efforts in areas affected by illegal mining, the Ministry of the Environment is carrying out Budget Programme No. 136, on prevention and environmental remediation, whose activities include:

- Providing environmental education for the purposes of prevention and environmental remediation;
- Implementing and running a system for the identification, categorization and prioritization of contaminated and degraded areas;
- Conducting research into the environmental remediation of contaminated sites.

11. The Office of the Deputy Minister of Intercultural Affairs of the Ministry of Culture is in charge of formulating policies, programmes and projects to promote interculturality as a guiding principle with the aims of promoting and guaranteeing the rights and comprehensive development of culturally different groups in the country, and of building a society that recognizes and respects cultural diversity and that enriches itself through interaction with different cultures. The Ministry of Culture is part of the Permanent Multisectoral Commission whose purpose is to monitor the Government's efforts to combat illegal mining and to develop the formalization process established by Supreme Decree No. 075-2012-PCM.

## **2. Paragraph 22: Implementation of the Comprehensive Collective Reparations Plan**

12. **The Committee urges the State party to:**

(a) **Adopt the necessary measures to ensure the speedy and effective implementation of the Comprehensive Collective Reparations Plan, including the allocation of sufficient resources;**

(b) **Facilitate the participation of indigenous peoples in developing and implementing reparation programmes;**

(c) **Reopen the investigation into the case of victims of forced sterilization and ensure that those responsible are duly punished and that the victims receive appropriate reparation.**

13. The Comprehensive Collective Reparations Plan, adopted under Act No. 28592 and regulated by Supreme Decree No. 015-2006-JUS, is aimed at victims of the violence that occurred between May 1980 and November 2000. The Plan includes reparation schemes, both symbolic and collective, in the areas of health, education, restoration of civil rights, economic reparations and promotion of access to housing. The Plan also recognizes the right of victims to reparation and, accordingly, the obligation of the central, regional and local governments to implement the Plan, guided by the principles of timeliness, non-discrimination and effective reparation.

14. With regard to the regulatory framework, the Technical Secretariat of the High-Level Multisectoral Commission responsible for monitoring State actions and policies in the areas of peace, collective reparations and reconciliation within the Ministry of Justice and Human Rights has strengthened coordination among the State sectors and bodies tasked with implementing the Comprehensive Collective Reparations Plan so as to provide comprehensive support to victims of the violence that occurred.

15. The management of the High-Level Multisectoral Commission has led to the achievement of satisfactory results. Between 2007 and July 2015, the State allocated 251,297,936 soles (S/.) to the Collective Reparations Programme, which made it possible to provide funding of up to S/. 100,000 for a total of 2,175 projects to provide production infrastructure or to improve basic services in 2,150 populated areas affected by the violence and for persons listed in the Central Register of Victims.

16. In 2012, a provision was added to the general guidelines for the Collective Reparations Programme stipulating that at least one woman must be included in management and community oversight committees. Moreover, two members must be representatives of victims of the violence and one must be a member of a self-defence committee, provided there is one in the community.

17. The implementation of the Economic Reparations Programme began in July 2011, a year in which 1,878 beneficiaries received a total of S/. 11,161,845. Pursuant to Supreme Decree No. 051-2011-PCM, the process of identifying beneficiaries of the Programme was concluded and the amount of the payments, their distribution and the criteria for the prioritization of beneficiaries were determined.

18. These criteria turned out to be detrimental to persons affected by the violence, so a bill to reform them was proposed and adopted through the promulgation of Act No. 29979, on the establishment of prioritization criteria in the implementation of the Economic Reparations Programme under the Comprehensive Collective Reparations Plan. The Act lays down as a criterion for prioritization the date when the human rights violation occurred. Moreover, the implementing regulations for the Act, which are contained in Supreme Decree No. 015-2006-JUS, establish criteria that make it possible to prioritize persons aged 60 years and over, persons with disabilities and persons who are vulnerable because of a serious deterioration in their health. To date, a total of S/. 253,589,133 in compensation has been awarded under the Economic Reparations Programme to 76,590 of the 79,085 persons listed in the Central Register of Victims, equal to 96.9 per cent.

19. As to the Health Reparations Programme, the State opened up the Comprehensive Health Insurance System to provide physical and mental health treatment to victims of violence. At present, 96 per cent of the persons listed in the Central Register of Victims are covered under this System and there are psychologists in 11 regions of the country to provide mental health care to victims.

20. Taking into account the general guidelines for the Educational Reparations Programme, the Ministry of Education prepared the Multi-year Plan for 2015-2020, which covers the following categories of education: literacy, alternative basic education, technical-productive education, higher technical education and university education. The Plan also includes collective reparation schemes in the areas of educational infrastructure and reconstruction of the social fabric.

21. The State has awarded 846 comprehensive grants (covering the cost of enrolment, boarding, accommodation, food, transport, materials, a laptop and a uniform) to beneficiaries of the Educational Reparations Programme for vocational or technical courses. Moreover, 276 grants have been offered for technical-productive training courses, 745 beneficiaries have enrolled at a university or public institution thanks to provisions for setting aside unfilled places, 50 beneficiaries have been given scholarships at technical colleges and teacher training institutes, and a pilot programme covering literacy and the completion of primary and secondary education is being implemented in the regions of Ayacucho, Apurímac and Huancavelica.

22. Under the Symbolic Reparations Programme, public acts of acknowledgement take place and formal apologies are made in various regions of the country. A museum of memory and the Place for Memory, Tolerance and Social Inclusion have been inaugurated in the region of Junín and in Lima, respectively.

23. Furthermore, State representatives supported the process of returning the remains of 704 victims of enforced disappearance by providing coffins to ensure dignified burials and by organizing funeral services such as wakes, requiem masses and the transfer of coffins, burials and burial facilities. The Government handed over a 3.6-hectare plot of land known as La Hoyada<sup>1</sup> to the regional government of Ayacucho so that it could build a shrine of remembrance. On 9 February 2015, the first stone was placed in the perimeter fence that will protect the area from trespassers.

24. Under the Programme to Restore Citizens' Rights, the Ministry of Justice and Human Rights has proposed a bill on the implementation of a national policy on the search for disappeared persons in order to coordinate and strengthen the measures taken by the Government to search for, recover, identify and return the remains of disappeared persons. The Ministry also offers legal assistance to victims by appointing specialized lawyers in the regions of Apurímac, Ayacucho and Huancavelica.

25. In July 2015, the Ministry of Housing, Construction and Sanitation adopted resolution No. 195-2015-VIVIENDA, which provides for the following reparation measures for beneficiaries of the Programme to Promote Access to Housing: (a) an increase in the maximum monthly family income<sup>2</sup> for the purposes of eligibility under the Household Targeting System to S/. 4,195.80; (b) an increase in the value of the Family Housing Bonus to 51 per cent; and (c) the award of 10 points for applications under the Techo Propio (Own Roof) programme.<sup>3</sup>

<sup>1</sup> An area adjoining the Fuerte Los Cabitos military barracks in Ayacucho where the remains of 109 disappeared persons were exhumed.

<sup>2</sup> The maximum monthly family income, which is calculated and published annually by the National Institute of Statistics and Informatics, is an index based on the poverty line in Metropolitan Lima and on the average number of members of each household. Remaining below the income threshold is one of the eligibility requirements for the Programme to Promote Access to Housing (the Techo Propio (Own Roof) programme and the Family Housing Bonus). Raising the maximum monthly family income enables more people to benefit from the Programme.

<sup>3</sup> The Techo Propio programme is designed to help families with a monthly income of under S/. 1,915 purchase, build or improve their home and ensure that it has basic services, including electricity,

**Victims of Forced Sterilization**

26. Supreme Decree No. 006-2015-JUS, published in the Official Gazette *El Peruano* on 6 November 2015, declared priority attention for victims of forced sterilization between 1995 and 2001 to be in the national interest, and provided for the creation of a national register with the aims of identifying all affected persons and guaranteeing their access to justice. The Decree stipulates that the Ministry of Justice and Human Rights, through the General Directorate of the Public Defence Service and Access to Justice, is responsible for providing victims of forced sterilization with free legal assistance and support from the moment they file a complaint until the end of the ensuing judicial proceedings. The purpose of offering free legal assistance is to raise awareness of the Decree and to strengthen its implementation, so that persons who consider that they have been affected by forced sterilization can have their names added to the register. The General Directorate of the Public Defence Service and Access to Justice has developed an action plan for the district directorates of Cusco, Cajamarca, Piura, Huancavelica and Lima Este. The goals of the plan are to identify alleged victims of forced sterilization, enter their names in the register and provide them with free legal assistance, comprehensive health care within the framework of the provisions regulating the Comprehensive Health Insurance System of the Ministry of Health, psychological care and social support from the Ministry for Women and Vulnerable Groups.

27. A user manual for the computer system of the register of victims of forced sterilization between 1995 and 2001 was adopted through Directorate Decision No. 03-2016-JUS/DGDPJ with a view to establishing a guide for the system's public operators and to having a computerized national register of victims of forced sterilization in accordance with Supreme Decree No. 006-2015-JUS.

28. Moreover, acting on the commitments made in the friendly settlement agreement in the case of María Mamérita Mestanza Chávez, signed by Peru on 10 October 2003 before the Inter-American Commission on Human Rights (Report No. 71/03), the Public Prosecution Service, through its various offices, formalized the charge of an offence against life, body and health in the form of homicide and exposure to danger perpetrated against María Mamérita Mestanza Chávez, who was surgically sterilized and died as a result of the operation, in judicial proceedings No. 26-2014. The case was referred to the National Criminal Court on 24 June 2015, once the lower court had submitted its final report. In a judicial decision of 25 August 2014, the case was declared to be complex and the investigation period was extended by eight months, after which the case was handed over to the Public Prosecution Service by a decision of April 2015 so that it could pass judgment in accordance with its powers and functions. This led to final ruling No. 17-2015. The supplementary final report, publication of which is pending, will cover: (a) the measures requested by the provincial prosecutor specializing in organized crime; (b) the measures taken at the judicial level; (c) the measures that have not been taken; (d) the measures requested during the extended investigation period (after the case had been declared to be complex); (e) the measures taken during the extended investigation period at the judicial level; (f) the measures that have not been requested; and (g) the legal actions brought.

29. The Peruvian State also pledged to conduct administrative and criminal investigations into the conduct of members of the Public Prosecution Service and the judiciary who failed to take action to clarify the facts alleged by Mr. Salazar Suárez, Ms. Mamérita Mestanza's widower.

30. In that connection, investigation No. 29-2011, which is being handled by the Public Prosecution Service, was referred to the Second Supra Provincial Criminal Prosecutor's

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water and drainage. Beneficiaries of the programme receive the Family Housing Bonus, which is a direct non-repayable State grant awarded to families as an incentive to save.

Office on 27 April 2016 after the Third National Criminal Prosecutor's Office upheld partly the legal challenge to the prosecutorial decision of 22 January 2014, submitted jointly by the Counsel General's Office specializing in the corruption of civil servants, a legal representative of the NGO Demus — Estudio para la Defensa de los Derechos de la Mujer (Study for the Defence of the Rights of Women) and representatives of the NGO Instituto de Defensa Legal (Legal Defence Institute). The Third National Criminal Prosecutor's Office ordered that the preliminary investigation of the case should be extended by three months so that measures could be taken to clarify the facts, and recommended that the Supra Provincial Criminal Prosecutor should take as many statements as possible during the three-month period in the different geographical areas relevant to the case. Furthermore, the Office of the Coordinating Prosecutor of the National Criminal Prosecutor's Office and the supra provincial criminal prosecutors' offices requested nationwide jurisdiction and additional prosecutorial staff to help expedite the investigation.

31. Lastly, the Public Prosecution Service reported that the chief prosecutor of the Third Supreme Prosecutor's Office for Internal Oversight had dismissed as unfounded the ex officio complaint against Luis Almicar Ruiz Vigo, Juan Manuel Albán Rivas and Rafael Tejada Goicochea, for their conduct as senior judges in Cajamarca; Olga Rosario Castañeda Ayulo, for her conduct as a court of combined jurisdiction judge in Baños del Inca, Cajamarca; and Guillermo Hildebrando Rojas Alcalde, for his conduct as a provincial prosecutor in Cajamarca and for the alleged commission of the offences of concealment and of failure or refusal to perform official acts, or undue delay in doing so (offences related to the case involving a violation of the human rights of María Mamérita Mestanza Chávez).

**3. Paragraph 23: Social conflict arising out of projects involving natural resource exploitation**

32. **The Committee urges the State party to:**

(a) **Strengthen mechanisms to prevent social conflict by promoting the effective participation of members or representatives of indigenous peoples to enable them to express freely their opposition to projects involving natural resource exploitation;**

(b) **Conduct an exhaustive inquiry into violations of human rights that arise out of opposition to extractive projects;**

(c) **Adopt the necessary measures to guarantee respect for the principle of proportionality and strict necessity in the recourse to force against persons belonging to indigenous peoples;**

(d) **Consider repealing Act No. 30151 and ensure that those responsible for the excessive use of force, to the detriment of members of indigenous peoples, are brought to trial.**

33. The National Office for Dialogue and Sustainability of the Office of the President of the Council of Ministers, established under Supreme Decree No. 106-2012-PCM of 24 October 2012, aims to help strengthen democratic governance and development, bearing in mind the relationship between citizens and the State, by institutionalizing dialogue as a mechanism for transforming conflicts into opportunities for development. The National Office also works to coordinate the efforts of different levels of government, the private sector, civil society and international partners, and to bring about changes in the relationships among the main players in social conflicts (the State, companies and the public) in order to find comprehensive solutions to disputes, controversies and conflicts.

34. The basic objectives of the National Office are to:

- Help strengthen democratic governance and development, bearing in mind the relationship between citizens and the State;
- Transform social conflicts into opportunities for development by preventing and managing them through institutional policies of dialogue and sustainable development.

35. The National Office also aims to deal comprehensively with social conflicts, in particular by preventing them through dialogue and by settling them peacefully, introducing procedures that are sustainable regardless of who is in charge of them.

36. Despite the progress made by the State, population groups affected by high levels of poverty and exclusion, including indigenous communities, do not enjoy all the benefits of the growth of the extractive industries — especially mining and hydrocarbons — in the territories that they inhabit, which leads them to view extractive activities as a social and environmental threat (a sentiment reinforced by negative experiences in the past), which in turn converts the territories into at-risk areas in the Amazon region.

37. The National Office for Dialogue and Sustainability has the Early Warning and Response System, which is divided into three subsystems dealing with information, response and monitoring. As a first step, the system gathers and analyses information on disputes and controversies that are escalating to the point of becoming social conflicts, which makes it possible to set up sectoral and multisectoral action mechanisms to provide an effective State response. The Multisectoral Commission for the Prevention of Social Conflicts will play a fundamental role in this respect.

38. As part of the subsystem dealing with the response to conflicts, a platform of interoperability is being created to serve as a link between the Early Warning and Response System and the computer systems for the monitoring of social conflicts in each sector of the national Government and of regional governments, thereby aligning the responses of public entities with the public's demands.

39. The monitoring of conflicts is based on information provided by governors from the Ministry of the Interior, regional commissioners from the National Office for Dialogue and Sustainability, and sectors of the national Government and of regional governments. It also draws on information from media sources and will increasingly be informed by competent government bodies.

40. As a support method, the National Office for Dialogue and Sustainability develops preventive tools (a portfolio comprising maps of public and private investment, social stakeholders and organizations, environmental vulnerability and poverty) in the different regions of the country to identify areas at risk and to promote development through public works, projects and services that assert the State's presence in those areas.

41. Lastly, the third subsystem is designed to institutionalize the prevention of social conflicts at all levels of government. To that end, regional and local governments are given guidance on formulating prevention policies, creating and strengthening offices for the management of dialogue and coordinating the early warning systems of regional governments, with emphasis on the importance of prevention at those levels. The subsystem is a key tool in the promotion of capacity-building among regional governments through the development of public investment programmes.

42. The National Office for Dialogue and Sustainability works to open and enhance dialogue as a vehicle for change, creating a climate of trust so that participants in conflicts can resolve them with a view to reaching sustainable, lasting agreements.

43. When, for various reasons, conflicts escalate into crises, they are dealt with in order to reverse or at least arrest that process, creating the conditions for re-establishing channels



of dialogue among the parties involved. The National Office puts in place follow-up mechanisms to monitor the situation.

44. The National Office participates actively in the establishment and operation of negotiating tables, working groups and other bodies and mechanisms involving the parties to conflicts, acting as a facilitator or mediator where appropriate.

45. The Office of the President of the Council of Ministers and the executive perform different roles in the resolution of conflicts depending on the nature of the parties involved. Social conflicts among private actors must be resolved through bilateral negotiations. Public institutions participate in order to establish the conditions for the parties to reach agreements and compromises, with respect for fundamental rights and for laws, particularly those governing access to natural resources and public goods.

46. When the national Government is one of the parties to a social conflict in which demands are made for changes to a public policy or for social policies to be implemented for the common good, the executive is in charge of resolving the conflict. When the solution entails reviewing, amending or adopting laws that meet the public's demands, proposals are submitted for consideration to the legislature.

47. An example of the work carried out by the National Office for Dialogue and Sustainability can be found in the context of the request for bids to operate oil block 192, which includes block 1-AB, for which the company Pluspetrol Norte S.A. held the exploration licence until 29 August 2015. Indigenous organizations have made repeated complaints about the oil spills that have occurred over the last 40 years and about the increase in the number of sites affected in the Pastaza, Tigre, Corrientes and Marañón river basins. The problem also extends to parts of oil block 8.

48. The Government's response has been to set up a multisectoral commission within the Office of the President of the Council of Ministers, by Supreme Decree No. 200-2012-PCM. The commission has been tasked with analysing, designing and proposing measures to improve the social and environmental conditions of the peoples who inhabit the Pastaza, Tigre, Corrientes and Marañón river basins in the region of Loreto. The commission comprises one member and one alternate from the following institutions:

- The Office of the President of the Council of Ministers, which chairs it
- The Ministry of Agriculture
- The Ministry of the Environment
- The Ministry of Culture
- The Ministry of Development and Social Inclusion
- The Ministry of Education
- The Ministry of Economy and Finance
- The Ministry of Energy and Mining
- The Ministry of Health
- The Ministry of Housing, Construction and Sanitation
- The regional government of Loreto
- The National Water Authority
- The Environmental Evaluation and Accounting Office
- The Energy and Mining Investment Regulator

- Perupetro S.A.
- The General Directorate of Environmental Health

49. The Development Commission was set up to propose concrete measures — taking into account the social and environmental analyses conducted by the multisectoral commission (Supreme Decree No. 200-2012-PCM) — with regard to the following:

- Land titling — to complete the process of awarding land titles to the native communities who inhabit the four river basins;
- Sanitation and other services — to enhance the accessibility and quality of public services such as sanitation, food security, electricity, education and health care;
- Environmental remediation — to carry out the necessary environmental activities and to establish a fund to restore the confidence of indigenous peoples in the State.

50. The work of the Development Commission in addressing certain topics has made it possible to launch a process of prior consultation<sup>4</sup> on oil block 192, a process in which the federations have pledged to participate, thereby guaranteeing that oil will continue to be extracted for the benefit of the region of Loreto and of the country as a whole.

51. On 10 March 2015, the Government reached agreements with the native communities represented by the Federación Indígena Quechua del Pastaza (Quechua Indigenous Federation of Pastaza), the Federación de Comunidades Nativas del Río Corrientes (Federation of Native Communities of Río Corrientes) and the Asociación Cocama de Desarrollo y Conservación San Pablo de Tipishca (Cocama Association for Conservation and Development of San Pablo de Tipishca) in a historic document signed by the federations, the then Prime Minister Ana Jara Velásquez, government ministers and deputy ministers, and the regional government of Loreto, in the presence of representatives of the Ombudsman's Office and of the United Nations Development Programme. The document contains commitments to meet demands for sanitation, land titles, environmental remediation and basic services, and provides for a process of prior consultation on oil block 192 and for a request for bids to operate it, as part of efforts that were being undertaken by the Multisectoral Commission for the Development of the Pastaza, Tigre, Corrientes and Marañón river basins in the region of Loreto, established by Supreme Decree No. 119-2014-PCM.

52. Under the agreements, the Government pledged to create a contingency fund to guarantee the environmental remediation of oil block 1-AB, with seed money totalling S/. 50 million. The fund was set up pursuant to Act. No. 30321. Moreover, S/. 3 million will be transferred to the regional government for the awarding of land titles to the native communities. Pledges were made to build 65 drinking water treatment plants, to conduct a toxicological and epidemiological study and to implement the National Strategy and Comprehensive Action Plan for Indigenous Peoples. Commitments were also made with regard to education, electricity, agricultural development and water quality monitoring.

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<sup>4</sup> Article 2 of Act No. 29875, on the Right of Indigenous or Aboriginal Peoples to Prior Consultation, recognized in International Labour Organization (ILO) Convention No. 169, provides that the indigenous or aboriginal peoples have the right to prior consultation on legislative or administrative measures that directly affect their collective rights, physical existence, cultural identity, quality of life or development. Consultation must also be sought with regard to national and regional development plans, programmes and projects that directly affect these rights. The consultation referred to in the Act must be sought by the State alone. Article 3 of the Act provides that the purpose of consultation is to achieve agreement or consent between the State and the indigenous or aboriginal peoples with regard to legislative or administrative measures that directly affect them through an intercultural dialogue guaranteeing that they will be included in the State's decision-making processes and that the measures adopted will respect their collective rights.

53. The agreements were circulated in the communities living in the Pastaza (16 March), Corrientes (31 March) and Marañón (17 March) river basins in the presence of high-level government officials and were translated into the following native languages: Kichwa, Kukama-Kukamiria and Achuar.

54. On 14 May 2015, Perupetro S.A. published an international request for bids to operate oil block 192, while the Government and the federations held preparatory meetings from 18 to 23 May 2015, at the end of which they adopted a plan for prior consultation on the oil block.<sup>5</sup> This was the first milestone in the implementation of the process of prior consultation on the future of oil block 192 and in the subsequent adoption of agreements in that regard.

55. The Ministry of Culture, through the Directorate of Indigenous Policies, set up the Working Group on Indigenous Peoples by Ministerial Resolution No. 403-2014-MC. The Working Group is tasked with coordinating, proposing and monitoring public policies that affect indigenous peoples or that require an intercultural and participatory approach involving representatives of the Office of the Deputy Minister of Intercultural Affairs and Indigenous Peoples. The Office currently chairs the Working Group, and the Directorate of Indigenous Policies within the Ministry of Culture serves as the Technical Secretariat.

56. The Interministerial Commission for Social Affairs of the Office of the President of the Council of Ministers works to identify the main policy and management challenges that restrict access to State programmes for members of native communities of the Amazon, and to promote the use of new service delivery methods that are based on cultural sensitivity, geographical accessibility, coordinated interventions, access to new technologies and the provision of adequate resources.

57. Four pilot projects have been developed in four specific locations: Pampaentsa, Condorcanqui, Saweto and the Kugapakori-Nahua-Nanti Reserve. The Office of the Deputy Minister of Intercultural Affairs within the Ministry of Culture, through the Directorate of Indigenous Policies, participates in a cross-cutting manner in all the sub-working groups of the Interministerial Commission for Social Affairs and cooperates with the Ministry of Development and Social Inclusion to follow up on the intersectoral agreements and the activities proposed by each sub-working group, given the importance for indigenous peoples of doing so.

58. Lastly, the Inter-institutional Technical Committee on Ethnicity Statistics was established by Administrative Resolution No. 167-2013-INEI. The Committee, which includes representatives of State entities, academia, civil society and indigenous and international organizations, was set up to provide a forum for institutionalized dialogue on the inclusion of a question on ethnic self-identification in the 2017 census. The purpose of the initiative is to gather sociodemographic statistical information on the indigenous and Afro-Peruvian communities that can be used in formulating and implementing effective public policies.

### **The recourse to force against persons belonging to indigenous peoples**

59. The Peruvian State, in accordance with the competencies of the Ministry of the Interior, has regulated the use of force with the aims of ensuring that police work is firmly rooted in human rights and of establishing regulations concerning principles on the use of force, including in relation to firearms.

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<sup>5</sup> The plans for prior consultation on oil block 192 that were adopted with the communities can be found on the Perupetro S.A. website:  
<http://www.perupetro.com.pe/wps/wcm/connect/perupetro/site/consulta%20previa/Consulta%20Previala%20por%20Lote%20192>.

60. In this connection, Legislative Decree No. 1186, published on 16 August 2015, regulates the use of force by members of the national police. It provides a legal framework that establishes clear rules governing the use of force and sets out the circumstances and conditions under which it is permitted, the procedures to be followed and the consequences of the improper use of force, in line with international human rights standards applicable to the police, in particular the Code of Conduct for Law Enforcement Officials<sup>6</sup> and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.<sup>7</sup>

61. Furthermore, on 5 February 2015, the Ministry of the Interior signed an international inter-institutional cooperation agreement with the International Committee of the Red Cross with the aim of coordinating actions and efforts to incorporate international standards regarding the use of force and the protection of persons into the regulatory framework, principles, education system and training of the national police.

62. The agreement establishes that the following measures will be taken to incorporate international human rights standards into the training of the national police and to fulfil the obligations of the Ministry of the Interior and of the national police under the international instruments ratified by the Peruvian State:

- Review the extent to which institutional policies (regulations, manuals and guidelines) are in line with international standards on the use of force with a view to bringing them up to date.
- Review the extent to which the curriculum for national police officers (training, specialization and advanced training) is in line with international standards on the use of force.
- Build capacity within the different regions, directorates, police units and specialized units with regard to the international standards on the use of force applicable to operations to maintain or restore public order.

#### **4. Paragraph 24: Combating racial stereotypes**

63. **In the light of its earlier recommendation (CERD/C/PER/CO/14-17, para. 19) and its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party should:**

(a) **Take appropriate steps in accordance with the general recommendation to prevent the propagation of messages, programmes and advertisements that continue to perpetuate the stigmatization of indigenous peoples and Afro-Peruvian communities through the representation of stereotypes;**

(b) **In accordance with the commitment expressed during the interactive dialogue, speed up the preparation and adoption of a code of ethics under which the media will undertake to respect the dignity, identity and cultural diversity of indigenous peoples and Afro-Peruvian communities;**

(c) **Conduct extensive awareness-raising and education campaigns among the general public on the negative effects of racial discrimination and promote understanding and tolerance among the various racial and ethnic groups in the country.**

64. As part of efforts to eliminate discriminatory behaviour by the media, the Ministry of Transport and Communications, through the General Directorate for the Monitoring and

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<sup>6</sup> [http://www.tc.gob.pe/portal/servicios/tratados/uni\\_ddhh/instru\\_alca\\_especifi\\_uni/instru\\_proc\\_just/cod\\_cond.pdf](http://www.tc.gob.pe/portal/servicios/tratados/uni_ddhh/instru_alca_especifi_uni/instru_proc_just/cod_cond.pdf).

<sup>7</sup> <http://www.ohchr.org/SP/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>.

Supervision of Communications, and in the exercise of its functions, settled the complaint filed in relation to the character “El Negro Mama”, played by comic actor Jorge Benavides in the comedy programme “El especial del Humor” in an episode broadcast on 20 March 2010 by the Compañía Latinoamericana de Radiodifusión (Latin American Broadcasting Company) on channel 2 of the Frecuencia Latina network.

65. As a result of the administrative proceedings, the Latin American Broadcasting Company was fined 20 tax units for failing to comply with the standards established in the Code of Ethics approved by the Ministry of Transport and Communications, on the grounds that the character undermined the dignity of people of African descent. The proceedings were subject to an appeal through the administrative court system that is pending before the competent authority.

66. The Ministry of Education modified its Regulations on Organization and Functions by Supreme Decree No. 001-20015-MINEDU and established the Department of Alternative Basic Education, Intercultural Bilingual Education and Rural Services, which will improve the coordination of adult education and literacy activities for indigenous and Afro-Peruvian communities, and the monitoring of the implementation of education policies in rural areas.

67. The central government budget for activities to promote, implement and manage intercultural bilingual education, including those undertaken by the General Directorate of Intercultural, Bilingual and Rural Education, and by its subdivisions, the Directorate of Intercultural and Bilingual Education and the Rural Education Directorate, has risen significantly from S/. 13,982,602 in 2012 to S/. 63,199,739, the equivalent of S/. 51.7 per student, without taking into account the funds invested by other departments of the Ministry of Education.

68. In 2014, the total investment, which covered funds to support local educational projects, the remuneration of bilingual teachers and infrastructure costs for intercultural bilingual education schools, amounted to S/. 2,072,924,588, the equivalent of S/. 1,696 per student. According to education quality statistics for regular basic education, in 2014, a total of S/. 1,948 per student was invested in education. That investment covered children in early and primary education at the national level and children in secondary education in certain areas.

69. The General Directorate of Intercultural, Bilingual and Rural Education, through the Directorate of Alternative Basic Education, is implementing a strategic adult education plan with an intercultural focus aimed at adult speakers of the native languages who belong to indigenous and Afro-Peruvian communities. In that connection, the school census carried out in 2014 was the first to include a question on ethnic origin, which made it possible to determine the number of educational institutions that serve Afro-Peruvian children.

70. The Ministry of Education conducts various campaigns to raise awareness of the negative effects of racial discrimination. It participates in fairs organized by the Ombudsman’s Office for the International Day for the Elimination of Racial Discrimination, which is observed on 21 March, and promotes the celebration of the National Day of Native Languages on 27 May each year, including through social campaigns to encourage greater appreciation of indigenous peoples, who have historically been discriminated against in the country.<sup>8</sup>

<sup>8</sup> The participation by the Ministry of Education was filmed and can be viewed by following these links: <https://www.youtube.com/watch?v=bqJjfrFIN-Q>, <https://www.youtube.com/watch?v=bqJjfrFIN-Q>, <https://www.youtube.com/watch?v=XK68tNXV8Qs> and <https://www.facebook.com/media/set/?set=a.850613185013844.1073741876.471118666296633&type=3>.

71. The Ministry of Education also participates in the many public activities organized on the occasion of the Month of Afro-Peruvian Culture to make visible, and show appreciation for, the contribution of Afro-Peruvian people to Peruvian history and culture.<sup>9</sup> Moreover, for three consecutive years, the Ministry has organized a national meeting on indigenous and Afro-Peruvian children, known as Tinkuy, which culminates in a fair aimed at the authorities, non-indigenous children from the capital and the general public that is widely covered in the media. In 2014, Tinkuy won first prize in the good intercultural practices competition held by the Ministry of Culture.<sup>10</sup>

72. The national curriculum was partially modified by Ministerial Resolution No. 199-2015-MINEDU, which introduced an intercultural approach at all three levels of education in the subject areas related to communication, science, citizenship, history, geography and personal development. The modified national curriculum has indicators that are explicitly linked to non-discrimination, including one for the capacity to recognize that all persons are subjects of law and have duties, and another for the capacity to live together with respect for oneself and for others, in the subject areas related to social relations, history, geography, economics, individual, family and human relations, and civic and citizenship education.<sup>11</sup>

73. The Ministry of Education, through its Department of Alternative Basic Education, Intercultural Bilingual Education and Rural Services, is drawing up guidelines for intercultural education for all and has included a component on the prevention of racial and ethnic discrimination. Moreover, with the participation of civil society, a plan for high-quality intercultural education for Afro-Peruvian children and adolescents has been prepared and is set to be implemented in the second half of 2016.

74. Meanwhile, the Ministry of Culture, through the Directorate of Afro-Peruvian Policies and with the support of the World Bank, formulated a communication strategy to promote self-recognition within, and strengthen the identity of, the Afro-Peruvian community.

75. The Directorate for Cultural Diversity and the Elimination of Racial Discrimination drafted a handbook for communicators entitled “Comunicación que no discrimina” (Communication without discrimination) in view of the media’s influence in shaping discussions and stereotypes in Peruvian society and of the responsibility that it bears as a consequence.

76. Management tools have also been created, which include: a protocol containing guidelines for improving dialogue in culturally diverse areas, approved by Ministerial Resolution No. 143-2015-MC of 23 April 2015; and a guide to culturally appropriate public services, which provides guidelines and tools to help State bodies incorporate an intercultural approach in the management of public services, approved by Ministerial Resolution No. 124-2015-MC of 8 April 2015. Moreover, a non-discrimination training programme has been launched for local and regional government officials, communicators, teachers and students, among others.

77. A virtual platform called “Alerta contra el Racismo” (Warning against racism) ([www.alertacontraelracismo.pe](http://www.alertacontraelracismo.pe)) has been set up and is being strengthened. To meet some of the objectives of the platform, various information and awareness-raising campaigns

<sup>9</sup> The participation by the Ministry of Education was filmed and can be viewed by following these links: <https://www.youtube.com/watch?v=MINI6o9jRwY> and <https://www.facebook.com/media/set/?set=a.855000527908443.1073741877.471118666296633&type=3>.

<sup>10</sup> More information can be found at: <https://www.youtube.com/watch?v=IwVK7-ORLQI> and <https://www.youtube.com/watch?v=KLhua2lqWEc>.

<sup>11</sup> Accessible at: [http://sistemas06.minedu.gob.pe/sinadmed\\_1/resolucionesexternas/consultanormas.aspx](http://sistemas06.minedu.gob.pe/sinadmed_1/resolucionesexternas/consultanormas.aspx).

have been launched to mobilize public opinion with regard to discriminatory practices and to encourage critical thinking on racist ideologies. The aim of the first campaign, entitled “Playas libres de discriminación” (Public spaces free from discrimination), was to inform the public about their right to equality and non-discrimination in the use of public spaces. On 21 March, the International Day for the Elimination of Racial Discrimination, a national campaign entitled “Ah no eres racista, pero ...” (So you’re not racist, but ...) was conducted with the aim of highlighting ways of thinking that justify racist ideologies in Peruvian society. The campaign involved photographic exhibitions, public speeches and video spots.

78. Another of the campaigns, entitled “Ponte alerta contra el racismo en el fútbol” (Beware of racism in football), involved the broadcasting of messages in stadiums and the provision of training to referees and stewards. The campaign, which was launched in October 2013 and restarted in June 2014, has changed the work of the Justice Commission of the Professional Football Sports Association, which is the body responsible for punishing breaches of the Association’s regulations. The Commission issued eight resolutions punishing a number of Peruvian football clubs for racist conduct by their fans.

79. In addition, a video library of cultures project is being carried out to enable indigenous and Afro-Peruvian communities to create their own audiovisual material through participatory video workshops for children and adolescents. The video library of cultures offers an online platform for everyone to access hundreds of audiovisual resources on cultural diversity at [www.videoteca.cultura.gob.pe](http://www.videoteca.cultura.gob.pe), which helps to promote equitable communication.

80. The Ministry of Justice and Human Rights, meanwhile, is implementing a range of public policies to eradicate discrimination in the country, including:

**(a) Establishment of the National Commission against Discrimination and the Platform against Discrimination**

81. The National Commission against Discrimination was established by Supreme Decree No. 015-2013-JUS. It is the advisory body on equality and non-discrimination of the executive branch. The Commission consists of representatives of the Ministry of Justice and Human Rights, which acts as chair, the Ministry of Culture, the Ministry for Women and Vulnerable Groups, the Ministry of Labour and Job Creation, the Ministry of Health, the Ministry of Education, the Ministry of Transport and Communications, and the Ministry of Foreign Affairs.

82. Since 2014, the Commission has carried out training activities, adopted guidelines on the internal management of cases of discrimination and prepared manuals on combating discrimination, including for communicators and the national police.

83. Moreover, in coordination with the eight sectors that make up the Commission and with technical support from the National e-Government Office of the Office of the President of the Council of Ministers, the Platform against Discrimination (<http://yonodiscrimino.gob.pe/>) has been created to provide the Commission with a tool for coordinating national policies aimed at providing assistance and protection to the victims of all forms of discrimination and at punishing perpetrators, with a view to guaranteeing the exercise of the rights enshrined in the Constitution.

84. The Platform identifies the following prohibited grounds of discrimination: race or ethnicity, sex or gender, disability, age, sexual orientation or gender identity, and religion. While the list is not closed, these grounds of discrimination are the most commonly cited in cases of discrimination in Peru and are the grounds expressly mentioned in the Constitution (art. 2.2).

85. Thanks to the Platform's practical, user-friendly design, anyone can report cases of discrimination directly and provide basic information to enable the competent authorities to ensure that such acts are punished and that redress is provided. Children and adolescents are also able to report directly acts of discrimination that they have suffered.

**(b) National Plan for Education on Fundamental Rights and Duties for the period up to 2021**

86. The Plan was approved by Supreme Decree No. 010-2014-JUS, published on 12 December 2014, at the request of the Ministry of Justice and Human Rights, the Ministry of Education, the Ministry of Foreign Affairs, the Ministry of Culture, the Ministry for Women and Vulnerable Groups, the Ministry of Defence, the Ministry of the Interior, the Ministry of the Environment and the National Centre for Strategic Planning of the Office of the President of the Council of Ministers.

87. The process of formulating the Plan was systematic and participatory, in the sense that it consisted of five stages spanning from December 2013 to November 2014, that a multisectoral commission was set up and that participatory workshops were organized for citizens in five regions of the country (Piura in the north, Ayacucho in the centre, Cusco in the south, Iquitos in the east and Lima).

88. The Plan establishes the country's first national policy framework for education in human rights, fundamental duties and international humanitarian law at all levels of education, both civilian and military, in accordance with the Constitution of Peru (art. 14) and with human rights treaties.

89. It also outlines 72 strategic actions to be carried out by 2021 and identifies specific responsibilities among the different State sectors for achieving three strategic goals relating to the following key components: (i) equality and non-discrimination; (ii) the full exercise of citizenship; and (iii) a culture of peace.

90. The Plan is being implemented and the Ministry of Justice and Human Rights is carrying out various activities in the discharge of its duties, which include monitoring the implementation of measures under the Plan, advising the bodies responsible for implementation so as to enhance their effectiveness and taking specific measures in its area of competence.

**(c) National Legal Education Programme for Social Inclusion**

91. The Programme is a human rights training programme established in 2007. From 2012 onward, it has sought to improve the social inclusion of vulnerable population groups by raising awareness of their human rights and of relevant rights protection mechanisms.

92. Members of the General Directorate of Human Rights within the Ministry of Justice and Human Rights provide legal training and pedagogical tools to law students at public and private universities across the country who are in the final years of their degree, so that accredited students can become promoters of human rights in their communities.

93. The Programme is run by the Ministry in cooperation with universities and law students in their fourth year or above who are interested in carrying out social outreach activities. There are currently a total of 222 accredited students on the Programme from 14 universities in Lima, Huacho, Ica, Trujillo, Ayacucho and Junín. Accredited students extend the impact of the Programme by providing training in local State schools and in community social organizations.

94. Training and support materials have been developed for the sessions led by persons accredited under the Programme. These materials are the same as those produced with support from the World Bank in the framework of the Justice Services Improvement Project.



95. The sessions cover such topics as equality and non-discrimination, children's and adolescents' rights, and the domestic remedies, both administrative and legal, that are available in the event of having to report any act of discrimination.

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