Peru

1. Discriminatory family code

Legislation\(^1\) prohibiting *early marriage* was adopted in 1999, making the *minimum legal age of marriage* 16 years for both men and women.\(^2\)

Indigenous groups make up 45% of the population in Peru,\(^3\) and indigenous identity is recognised under Article 89 of the Constitution.\(^4\) It is unclear whether and in what ways membership in one of the country’s 51 indigenous groups may affect age of marriage, but under Article 149 of the Constitution, customary or religious law is considered invalid if it violates non-discrimination law.\(^5\)

In Peruvian families, **parental authority** is shared by the mother and father, who have equal rights and obligations under Articles 287, 288, 290, 300, and 474 of the Civil Code.\(^6\) However, according to the National Institute for Statistics and Information and USAID, in nearly 25% of marriages, the father alone manages important household expenses.\(^7\)

In the event of divorce, the courts take into account the best interests of the child when awarding custody. In most cases, children under seven years of age stay with the mother. According to the law, once children reach the age of seven, custody depends on their sex: girls stay with their mother and boys with their father. However, in practice, most children remain with the mother. In cases of discrepancies, if the judge has to decide with whom they will stay, the sex could help to take the decision, giving girls to the mothers and boys to the father.\(^8\)

Peruvian Civil Code grants equal **inheritance** rights to men and women.\(^9\) However, Article 816 of the Code stipulates that the order of succession is children, parents, and then spouse.\(^10\)

\(^{1}\) Law 27201 of 14 November 1999  
\(^{2}\) CEDAW (2004), p. 93  
\(^{3}\) Minority Rights Group International (n.d.)  
\(^{4}\) FAO (n.d.)  
\(^{5}\) World Bank (2013a)  
\(^{6}\) FAO (n.d.)  
\(^{7}\) INEI et al. (2007), Table 3.10  
\(^{8}\) CEDAW (2004), p. 93  
\(^{9}\) FAO (n.d.)  
\(^{10}\) FAO (n.d.)
According to data gathered by the Food and Agriculture Organisation (FAO), in practice, there is a discrepancy between law and customary practice, as inheritance is heavily influenced by tradition, which varies according to indigenous group. In some cases, the rights of children are privileged over the rights of spouses, to the detriment of widows. Further, domestic partnerships are not recognised under the inheritance rights set out in the Civil Code, which has a discriminatory effect on women living in the mountainous areas of Peru, where registered marriages are not as common.\(^\text{11}\)

**More**

Both women and men can initiate divorce, according to the Family Code.\(^\text{12}\)

To promote more equal sharing of domestic work, the Fathers in Action Project (Proyecto Papa en Acción) worked directly with fathers in Peru from 2006-2008 to strengthen early childhood care and promote sharing care-related tasks with mothers. This was done through five fatherhood workshops on the basics of positive parenting and how to adjust to the caring role, among others. Results were positive as fathers felt more involved in the family, learned to respect family members and to avoid using violence, and shared more of the domestic and caregiving work with their wives.

### 2. Restricted physical integrity

The government has acted to reduce violence against women and, in 2001, set up the National Programme against Family Violence and Sexual Abuse.\(^\text{13}\) A law adopted in 2002 makes local authorities responsible for policies pertaining to domestic violence.\(^\text{14}\) The law stipulates punishments for both rape and spousal rape,\(^\text{15}\) however the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern in 2007 about the lack of enforcement measures and the lack of access to justice for women, particularly indigenous women.\(^\text{16}\) Also in 2007, the government approved the Law on Equal Opportunities for Women and Men, providing for the eradication of domestic and sexual violence and, in 2009, the government instituted a National Plan on Violence against Women (2009-2015),\(^\text{17}\) which includes physical, sexual and psychological violence against women.\(^\text{18}\) The Ministry of Justice has initiated campaigns to disseminate information about services for women available under the plan,\(^\text{19}\) and the National Police of Peru have a special directive\(^\text{20}\) of procedures that they are required to follow in cases of violence against women and girls and in the case of

\(^{10}\) FAO (n.d.)
\(^{11}\) FAO (n.d.)
\(^{12}\) Article 333
\(^{13}\) CEDAW (2004), p. 8
\(^{14}\) Article 60 of Law 27867, the Regional Governments Act of 18 November 2002; CEDAW 2004, p. 48
\(^{15}\) CEDAW (2006)
\(^{16}\) CEDAW (2007)
\(^{17}\) CEDAW (2012), pp. 22, 24
\(^{18}\) http://www.svri.org/Perupolicy.pdf - National Plan 2009-2015, p. 4
\(^{19}\) OAS (2012), p. 177
\(^{20}\) Directorial Resolution N ° 1724-2006-DGPNP/EMG-PNP
violations of sexual freedom. The government reported to the OAS in 2012 that a comprehensive plan to combat violence against women was in the pipeline.

According to the latest available data, the problem of violence against women remains widespread: in 2013, nearly four of every ten women (36.4%) have experienced domestic violence. In Peru, the most common form of violence against women is psychological abuse; nearly two-thirds of married, divorced, or widowed women in Peru reported that the men in their relationships either verbally or psychologically abused them or otherwise tried to exert some control over their lives. According to information reported by the government to the OAS in 2012, the 114 state-run Emergency Women’s Centres in Peru received 33,710 victims of domestic violence in 2010 and 31,974 victims in 2011, although they did not report on the subsequent number of complaints and criminal proceedings resulting from these cases.

During Peru’s civil war, which lasted from 1980 until 2000, women and children were victims of rape and sexual assault, especially in rural areas and during detention, and such acts were performed both by government forces and opposition groups. Other types of violence included sexual slavery, sexual violence as a form of torture, and forced marriage, abortion and pregnancy. Most cases of violence targeted lower middle class and brown-skinned women (cholas or mestizas), indicating that victims were targeted in relation to their class and race. In the years following the conflict, an increased incidence of sexual violence against women was reported. Article 170, an amendment to the Penal Code, recognises this history, and considers rape by a member of the Armed Forces an aggravating circumstance. In 2006, the Comprehensive Reparations Plan (Law 28592) was approved to give reparations for victims of the conflict. The Reparations Council developed a Single Register of Victims of Violence who suffered sexual slavery, forced marriage, forced prostitution and forced abortion. According to the government’s latest report to CEDAW, as of May 2011, the register “contained 1,657 registered cases of sexual violation (1,638 women and 19 men) and 428 cases of other forms of sexual violence (287 women and 141 men), and 560 cases [were] in the process of registration.”

In 2003 the Prevention and Punishment of Sexual Harassment Act (Law 27942) was published, which aims to prevent and punish sexual harassment that arises in relationships of authority or dependency in the workplace. The law was amended by Law 29430 to include all hierarchical and non-hierarchical relationships and to broaden the scope of the workplace to include education, the military, and law enforcement, which are not covered under Labour Law.

---

21 CEDAW (2012), pp. 26-27
22 OAS (2012), p. 18
24 Instituto Nacional de Estadística e Informática (2007), Table 12.1
25 OAS (2012), p. 199
26 Bastick et al. (2007), p. 83
27 OAS (2012), p. 122
28 CEDAW (2012), p. 27
29 OAS (2012), p. 122
unclear how social norms and stereotypes impact on the level of and response to sexual harassment in Peru.

There is no evidence that female genital mutilation is practised.

More

Femicide is an increasing problem in the Central and South American context. It is defined in a 2011 amendment to Peru’s Penal Code as a homicide of a woman when “she is or has been the spouse or common-law partner of the aggressor, or when she was linked to him in any kind of intimate relationship.”

Abortion is permitted in Peru only for the following reasons: to save a woman’s life and to preserve a woman’s physical and mental health.

3. Son bias

The male-to-female sex ratio at birth in 2013 is 1.05 and for the working age population (15-64 years old) 0.96. There is no evidence to suggest that Peru is a country of concern in relation to missing women.

More

There is virtually no gender gap in pre-primary, primary and secondary education, based on data from 2008 to 2012. The ratio female to male primary enrolment was 99.1% and 97% for secondary education in 2012. In secondary education, the slight gender gap is in detriment of boys.

4. Restricted resources and assets

Peruvian Civil Code upholds the right to ownership for all citizens and Article 2 of the Constitution guarantees gender equality under the law. However, according to data gathered by the FAO, women’s access to land is hindered by several factors, including illiteracy, displacement, and lack of knowledge about land rights. Indigenous women’s – and peoples’ more broadly – rights to land have been seriously impeded by the logging and oil industries. In 2002, only about 25% of land title deeds were granted to women.

---

30 Penal Code of Peru, amended by Law 29819, of December 27, 2011; OAS (2012), p. 32
31 UN DESA (2013)
34 World Bank (2013b)
36 Civil Code, Article 923 (unmarried women and men) and Articles 303, 313, 315 (married women and men); World Bank (2013a)
37 World Bank (2013)
38 FAO (n.d.)
39 Minority Rights Group International (n.d.)
40 CEDAW 2004, pp. 85, 91
The Constitution and the Civil Code provide for equal rights for men and women in regard to access to property other than land and signing contracts.\(^{41}\) Each spouse has the right to manage his or her own property, but the phenomenon of “informal ownership” is a source of injustice to women. Under this system, there is no obligation to obtain the wife’s consent when selling the family house. In effect, the husband has complete control of the property.\(^{42}\)

Peruvian women have some access to credit and bank loans. According to the latest data from the World Bank (2011), 12.4% of women had a loan from a financial institution in the past year, compared to 13.2% of men.\(^ {43}\) Women benefit primarily from micro-credit programmes and, in 2012, made up 51.89% of borrowers at microfinance institutes in the country.\(^ {44}\) Pro Mujer is one example of a microfinance institute that facilitates women’s access to credit. Its objective is to lift women out of poverty through a mix of services: Pro Mujer provides business and leadership training, preventive health education and primary healthcare services to women.\(^ {45}\)

5. Restricted civil liberties

While there are no reported legal restrictions on women’s access to public space in Peru, in 2007 the Committee on the Elimination of Discrimination against Women noted concern about the large number of women, particularly indigenous and rural women, who do not have any documentation registering their births and consequently cannot claim nationality and social benefits.\(^ {46}\)

According to data gathered by the Latin American and Caribbean Network for Trans People (REDLACTRANS) and the International HIV/AIDS Alliance, lack of documentation prevents transgender women in Peru from enjoying other rights, as 36% of transgender women in Lima reported that they do not have identity documents because of fear of discrimination at registry offices.\(^ {47}\)

Transgender women’s access to public space is, in fact, severely restricted due to threat of violence: there were 11 murders of transgender people in Peru between 2008 and 2011, according to a recent report by REDLACTRANS and the International HIV/AIDS Alliance.\(^ {48}\) In the same report, assault, including by the members of the criminal justice system, was identified as an issue that restricted transgender women’s rights – 31% of assaults reported by transgender women were by the National Police and 46% were committed by night patrols.\(^ {49}\) Homophobia is recognised as a crime under the 2009-2015 National Plan against Violence against Women.\(^ {50}\)

\(^{41}\) World Bank (2013a)  
\(^{42}\) FAO et al. (2004)  
\(^{43}\) World Bank (2013b)  
\(^{44}\) Microfinance Information Exchange (2013)  
\(^{45}\) Learn more about Promujer at http://promujer.org/  
\(^{46}\) CEDAW (2007)  
\(^{47}\) REDLACTRANS and International HIV/AIDS Alliance (2012), p. 23  
\(^{48}\) REDLACTRANS and International HIV/AIDS Alliance (2012)  
\(^{49}\) REDLACTRANS and International HIV/AIDS Alliance (2012), p. 14  
\(^{50}\) CEDAW (2012), p. 24
although it is unclear what affect (if any) this has had on discrimination against transgender women.

Women still face discrimination in the political sphere, despite legislation designed to increase their membership in the national government. The Law on Political Parties mandates that at least 30% of candidates on the party lists be women at both the national and sub-national levels, and there are also voluntary quotas maintained by three of the major political parties. While parties abided by the legislation, the country’s report to CEDAW (in 2004) found that many women candidates were included at the bottom of the party lists, reducing their likelihood of winning seats on regional and municipal councils. However, according to a 2007 Pew survey, 83% of those surveyed viewed male and female political candidates as equally qualified.

More

Peru offers 90 days of maternity leave at 100% of a woman’s average daily wage, financed through a national social security system. This applies to women in the public and private sectors, and independent workers may also become insured voluntarily by paying into the system. Pregnant women cannot be dismissed during their period of leave, under Legislative Decree No. 728 establishing the Act to Encourage Employment and, according to Act No. 28 983, of the Labour Code, one may not be discriminated against because of sex or marital status.

51 Electoral Law (amended by Law No: 27387, 2000); The Quota Project (2013)
52 Law 27387of 29 December 2000 amending Law 26859, the Elections Act; CEDAW 2004, p. 60
53 Pew Research Center (2007), Question Q.43
54 Act No. 26,644 determining Extent of the Right to Prenatal and Postnatal Leave for Pregnant Workers Art.1; ILO (2011)
55 ILO (2011); Microfinance Information Exchange (2013)
56 ILO (2011)
Sources


