

United Nations Human Rights Council

**Universal Periodic Review
2017**

Peru

**Joint submission
Presented by**



**Marist Foundation for International Solidarity
NGO with consultative status in ECOSOC**

**Edmund Rice International
NGO with consultative status in ECOSOC**

I Coalition of Organizations in the Universal Periodic Review of Peru

1. **The Marist Foundation for International Solidarity (FMSI)** was founded with the objective to make the world a better place for children and adolescents who live in difficult circumstances. The Foundation works on an international level in collaboration with other organizations of similar interests in pursuit of the human rights of children and adolescents and care for the earth.

2. **Edmund Rice International (ERI)** is an international non-governmental organization, founded in 2005 and with Special Consultative Status with ECOSOC since 2012. ERI is supported by two Catholic Religious Congregations, the Christian Brothers and the Presentation Brothers. It works with networks of like-minded organizations and in the countries where the two congregations are present. ERI has a special interest in the rights of the child, the right to education and in eco-justice.

II Introduction

More than 70% of Peruvian children have suffered physical or psychological violence from people they live with.¹

3. The current report concerning the present state of Human Rights in Peru is composed of information drawn from our network of NGOs. The primary focus of the report is the Rights of Children and Adolescents who live in the city of Lima. For this reason, we have concentrated our attention in the recommendation of Portugal (116.122 in the previous UPR cycle, and Peru's compliance with the recommendation to "Ensure that the child corporal punishment law under discussion, explicitly prohibits all forms of corporal punishment in all its contexts and that the approval of that bill be a matter of priority."

4. We recognize that the Peruvian government has promulgated Law 30,403 on 12-12-2015. This law prohibits the use of physical and humiliating punishment against children and adolescents. The law has two articles, and in the first article, it sets out the following:

"Article 1. Prohibits the use of physical and humiliating punishment against children and adolescents. This prohibition covers all environments in which children and adolescents pass their time, including home, school and work, as well as other related areas "(Peru, Congress of the Republic, 2015).

5. The Code of Adolescent Children has also been amended by Law 30,403, incorporating in its Article 3A the Right to Good Treatment of Children and Adolescents³. Therefore, the recommendations 116.9, 116.10, 116.11, 116.12, 116.134 are being implemented. Nevertheless, in our opinion, there are still serious limitations in compliance with recommendation 116.50, which states: "Establish mechanisms to deal with cases of corporal punishment of children with a view to effectively enforce the law." (Liechtenstein).

6. It is also important to emphasize that the Peruvian Government has drawn up the "National Plan of Action for Children and Adolescents 2012-2021"⁵ (PNAIA 2021) which constitutes the framework for the policy of the Peruvian Government in matters concerning children and adolescents. Supreme Decree No. 001-2012-MIMP, which became law in November 2015, legally recognizes this plan. One of the objectives of this Plan is to guarantee the protection of children and adolescents from ages 0 to 17.

7. Taking into account the progress made by the Peruvian Government, this report will mainly address two issues related to the rights of Children and Adolescents (NNAs), where this coalition believes that the government must improve:-

a. Law 30,403 prohibits the use of physical and humiliating punishment against children and adolescents but the government has inadequate capacity to carry out an effective enforcement of the law because of lack of information, lack of resources, and institutions lacking the necessary force to ensure the fulfillment of the law.

b. The widespread belief that there is a need to apply corporal punishment by parents or relatives as part of the education of children and adolescents.

III Methods Employed

8. The FMSI – ERI coalition produced this report using various instruments of investigation to ensure that the information has the highest degree of veracity possible. San Juan de Lurigancho, Lima, was the district chosen for investigation and analysis. This area of Lima is one of the most populated in the country with more than one million inhabitants. Within the population of this district, there is high percentage of children and young people living in poverty. (See section IV).

9. The investigative tools used to prepare this report were the following:-

- a. Locating and identifying the main state institutions in charge of the protection of children and adolescents. This mapping was carried out with field visits and using available public information.
- b. Review of the available documentation, including reports and official government texts regarding the enforcement of the law and the situation of violence used against children and adolescents.
- c. A questionnaire applied to 50 parents of the district of San Juan de Lurigancho.
- d. Interviews with three school authorities in the district of San Juan de Lurigancho.
- e. Interviews with three state officials associated with institutions responsible for the protection of children and adolescents.
- f. Interviews with four professionals from institutions dedicated to the defense of the rights of children and adolescents.

IV General Considerations

(a) Data re poverty among children and adolescents

10. Although the economic indicators for Peru have improved in recent years, poverty is still a serious problem. The diagnosis presented by government agencies is conclusive. In 2016, Peru, had an estimated population of 30 475 144, of which 9 142 543 (30%) are children and adolescents.

11. According to INEI (2016): “In 2015, 6,782,000 (21.77%) of the country’s population, were in poverty, that is, they had a level of expenditure less than the cost of the “basic food basket”. In Peru, the “basic food basket” is a set of necessities and services that an average family needs to survive for a certain period (usually per month). It includes food, clothing, transportation, health and hygiene, among other necessities. In addition in 2015, 1,266,000 million people (4.07% of the country’s population) was in extreme poverty, which means they had a per capita expenditure lower than the cost of the food in the “basic food basket” but without including the services.

12. Among children and adolescents, the rate of poverty is high. A lack of resources in poor households is often associated with specific risks, such as malnutrition, dropping out of school, and a lack of access to medical services.

13. In 2015, the percentage of children affected by poverty included 32,3% of children under 5; 32,0% of those between the ages of 5 and 9; 30,6% in the age group of children from 10 to 14; 23,5% of adolescents between the ages of 15 and 19; and 22,0% of adults between the ages of 35 and 39. The effects of poverty are especially prevalent in the rural areas of the country where more than 50% of the children under the age of 15, live in poverty. The incidence of poverty for the other age groups fluctuates between 31,0% and 48,5%.⁶

14. In the case of the district of San Juan de Lurigancho, 331,565 children and adolescents (35.87% of its population) are under the age of 19.7 Overall, in 2013 23% of the population of San Juan de Lurigancho was living in poverty. The high rate of poverty among children leads to cases of malnutrition. San Juan de Lurigancho has the highest rate of malnutrition in children less than 5 years old. The 6,803 children suffering from malnutrition within the district of San Juan de Lurigancho represents 7.4% of the total number of children of that age group living in this district, the highest in the country.⁸

(b) The effects of violence in children and adolescents

15. Interviews with teachers revealed the extent of violence in the homes of their students. According to the survey, 99% of the teachers indicated that the main perpetrators of the violence in the home

environment are fathers and mothers, especially in those households with lower economic resources or in families that are dysfunctional. There was also a tendency to use psychological violence as well as physical violence. Therefore, a vicious circle exists between poverty and violence against children.

16. The Ministry for Women and Vulnerable Populations in Peru mentions the effects of violence on children and adolescents:-

- a. the violence is as habitual as our personal relationships, to the point that we are not aware of them.
- b. experiences of violence effect the overall functioning of children in all aspects of their development (intellectual, social, emotional, physical and motor).
- c. the effects of violence are usually more severe when the victim is younger and the abuse is intense and frequent.
- d. The consequence of violence against children and adolescents not only affects the victim, but also impacts on the development, security and economy of the society and the country. Violence therefore is a social problem.”⁹

(c) Institutions responsible for monitoring the treatment of children and adolescents.

17. The Peruvian government, created the “Multisectoral Committee for the Implementation of the National Plan for Children and Adolescents” in 2012, which is made up of 18 state organizations including ministries, technical agencies and law courts.¹⁰ The chair of the committee is from the Ministry for Women and Vulnerable Populations (MIMP). The Municipal Advocates for Children and Adolescents, DEMUNA, formed in the year 2000, is one of the main agencies used to implement this National Plan. The organizations work with the district and provincial municipalities. Together with this group, the Ministry of Education is another of the fundamental agencies in the prevention of violence against children and adolescents.

18. According to the MIMP: “As of March 2012, there are 2 200 Advocates for Children and Adolescents throughout the country, located in 988 districts, making it the largest specialized network for children and adolescents in the country. Besides this, of the 195 provinces, 190 provinces have Municipal Advocates for Children and Adolescents – these are the Provincial DEMUNA “. ¹¹

V Analysis

(a) Peru’s limited capacity to enforce Law 30,403

19. UNICEF has made the following statement about child abuse:- “The evidence shows that the most frequent aggressors of both male and female children, as well as of adolescents, are precisely the adults responsible for protecting them. Being so close to these children they have the opportunity to continue to violate them, using their power to convince the children that corporal punishments and psychological challenges are part of their moral education.”¹²

More than 70% of Peruvian children have been subjected to at least one incident of physical or psychological violence inflicted by the people with whom they live.¹³

(b) Current situation

20. In 2015 the Female Emergency Centers of the Ministry for Women and Vulnerable Populations (MIMP) received 19,646 allegations of violence towards male and female children and adolescents. Of these accusations, 14,145 were for family violence (8,044) for psychological and physical violence (2,101) and for sexual violence (4,924). The Specialized System for Reporting Cases of Student Violence (SISEVE) reported 3,244 cases of violence in schools: 1,288 cases by adult aggressors and 1,956 incidents among students (September 2013 – June 2015).

18. The following are the results of interviews made with the parents of 50 families:-

- a. 70% of the parents do not know about the services available to children that are victims of physical and psychological punishments.
- b. 92% believe that the “government” does nothing to prevent physical punishment of children.
- c. 70% believe that physical and psychological-debasing punishment is frequent in their respective neighborhoods.

19. In the District of San Juan de Lurigancho, with a population of more than a million inhabitants, there is only one central office, along with an annex, for Children and Adolescent Protection. Difficulty

was experienced in obtaining information for this submission from the personnel of DEMUNA (office for the protection of children and adolescents) about its respective activities although it appears that the service provided by DEMUNA is mainly in administration. No evidence can be found of a working system to protect children and adolescents. Given that DEMUNA should be active in providing protection programs, the absence of such programs would suggest a serious deficiency in the organization.

20. As further evidence of this deficiency, a table that lists the number of protection agencies presently functioning in Peru is presented in appendix 1, together with other programs for the prevention of violence toward infants and adolescents. The information of this table is basically of an administrative nature.

21. We also note that the policies for the protection of children and adolescents of the “Ministry For Women and Vulnerable Populations (MIMP)” are not updated. The last updating was made in 2006¹⁴, which was before the promulgation of Law No 30,403. This situation was confirmed by Save the Children who recently stated that in 2016 the “Ministry for Women and Vulnerable Populations (MIMP) presented a guideline for the application of the Law No 30,403 to attend to children and adolescents in various parts of the Country. However, the proposed document was never put into practice. Our institution considers that these facets of the law are necessary to put into practice a program of prevention for male and female children and adolescents in an articulated and intersectoral manner.”¹⁵

22. The Municipal Government of Lima Metropolitana has a Consultative Council that functions as a Special Commission on behalf of children and adolescents within its jurisdiction. The objective of this Commission is to promote citizen participation in order to formulate policies on behalf on the Lima Metropolitan Government.

23. In December of 2012 this Commission was created as a consultative body, to which children and adolescents from different districts of Lima were democratically elected to express their ideas about the problems in their respective neighborhoods. Although it has not been possible obtain more information about the activities of the Commission, nor how these activities are integrated with other government proposals for the protection of children and adolescents, we recognize and welcome the fact that the MIMP¹⁶ has a plan of action (see Appendix 2)

24. Further comment about the role and work of DEMUNA (Municipal Defenders of Children and Adolescents) is provided in the report “Ombudsman’s Report No 164, ¿Let us strengthen DEMUNAs! In defense of the rights of boys, girls, and adolescents “ following an investigation in relation to the execution of DEMUNA’s official duties nationwide in 2013. The report acknowledges the importance of DEMUNAs, but it also mentions a series of deficiencies (some of which we have confirmed in the preparation of this submission):-

- a. 83% of the DEMUNAs do not have special rooms for boys and girls, 54% lack private space, and 45% are in need of bathrooms inside the premises.
- b. 33% of DEMUNAs personnel have not received any training at all for their jobs Training in topics such as gender, rights, and intercultural matters were seen as particularly needed.
- c. improved procedures especially those relating to Work Plans, Manual of Organization and Functions, and Internal Organizational Charts were also identified as being essential to accomplishing the work of DEMUNAs in a more organized and articulated way.”¹⁷

25. Despite the high degree of violence against Children and Adolescents, there is an absence of a temporary home or refuge that may provide a welcome in a crisis situation. This situation has also been acknowledged by the Ombudsman’s Office, which has presented recommendations in that regard.¹⁸

Recommendations

26. In the light of the above we urge the Peruvian government to:-

- 1. Guarantee the effective enforcement of law 30,403 by encouraging the application of multisector policies which will require resources from the Ministry of Women and Vulnerable Populations, (the entity responsible for the execution of the National Plan of Action for Childhood and Adolescence 2012 – 2021)**

2. Strengthen the Municipal Defenders of Children and Adolescents (DEMUNAs) by setting up the necessary structures for facilitating a complaints procedure as stipulated by law.

3. Establish the necessary guidelines for the enforcement of Law N° 30403 in all corresponding state agencies.

4. Adopt the recommendation made by the Ombudsman's Office that Congress¹⁹ amend the Law N° 27783, about Bases of Decentralization; Law N° 27972, Organic Law of Municipalities, as well as Law N° 28236, which allows the setting up of homes of temporary refuge for those victims in order to receive proper protection by the State.

(c) The widespread prejudice of society about the need to apply corporal punishment as a form to educate children and adolescents

27. An in-depth study, conducted by the Ministry of Women and UNICEF in 2014, concluded that: "The results of the first phase support the hypothesis that much of the violence that Peruvian boys, girls, and adolescents experience is deeply rooted in the social relations that involve families, schoolmates, neighbors, and friends."²⁰

28. The situation becomes serious when it is acknowledged that "Qualitative studies of the NGO Niños del Milenio and other studies indicate that boys, girls, and adolescents very often justify the abuse and see it as a valid form of discipline, feeling they have no way of avoiding it. However, they assert that it affects their well-being at home and at school."²¹

29. Other data provided by national surveys, carried out by the National Institute of Statistics, report the following:-

a. 45% of the people expressed that punishment can be good if it is used correctly, without causing harm to the boy, girl, or adolescent.

b. 33% felt that boys, girls, or adolescents who do not receive punishment become malicious or lazy.

c. 44% of boys, girls, and adolescents said that parents have a right to punish their children if they misbehave."²²

30. One fact that is corroborated by the study above is that parents are first and foremost the main actors in the use of discipline against boys, girls, and adolescents. Siblings are the second actors: "Siblings appear to be the second family members who use violence against boys, girls, and adolescents. In many cases they play that role at the request of parents themselves. Brothers are usually the ones that exercise violence, despite the fact that the tasks regarding care for other family members are generally assumed by sisters."²³

31. Social prejudices have a tangible expression through symbols that are described by media or social networks. It is easy to recognize objects such as "the belt," "the ruler," "the whip," or mother's "flip-flop" as instruments that are used to impose physical punishment against boys, girls, and adolescents. It is the acceptance of this prejudice that becomes the most difficult challenge to overcome when addressing violence against boys, girls, and adolescents. These forms of violence are difficult to recognize and call into question when it is considered socially normal.

32. In this regard, an expert from the "Instituto de Formación para Educadores de Jóvenes, Adolescentes y Niños Trabajadores de América Latina y el Caribe" (Training Institute for Educators of Young People, Adolescents, and Working Children in Latin America and the Caribbean) – German Schmitz advises that: "The messages expressed through media, coming from Congressmen and official authorities, as well the relations between adults and boys, girls, and adolescents, are generally vertical and do little to create the conditions for a culture of non-violence."²⁴ He also points out that society seems to be characterized by a culture of violence.

33. The Ministry of Women and Vulnerable Populations has launched a campaign in social media in 2016 called "Do not hit, do not humiliate."²⁵ The campaign aimed at raising public awareness about the negative consequences of the use of violence as a corrective measure. Civil society has also spread and promoted the Law 30,403 through a campaign called "Dare to bring up with love."²⁶ It has also given a virtual course named "Childhood without violence." Those efforts are valuable and important but nonetheless, they are still insufficient.

(d) Current situation

34. In the research carried out by our coalition, the existence of a reality, which hides physical and psychological harm to children and adolescents in families, was revealed:-

- a) 97,5% of parents identify that the home is the place where physical and humiliating punishment occurs.
- b) 70% of parents believe that physical and psychological punishment is frequent in their community.
- c) 98% believe that parents are those responsible for administering punishment.

35. Similarly from the teachers interviewed:-

- a) 90% believe that the victims of family violence are most commonly families of low economic status as well as indigenous populations.
- b) 99% of the interviewees believe that the aggressors are fathers and mothers.
- c) 70% of the teachers suggest that educational institutions should include the following: education for parents, psychologists and protocols for helping the boy, girl or adolescent in cases of violence.

36. This research was corroborated by the Ministry of Women and Vulnerable Populations, which affirmed that:

“Violence in the family, which is exercised against its most vulnerable members, still has a high degree of acceptance by adults, inasmuch as it is seen as a valid and effective form that can be used to educate and discipline. On the other hand, those violent behaviors, shown by people whom the victims see as their closest relatives, protectors, and objects of their affection, are justified and accepted by abused boys, girls, and adolescents, to the point that many times they themselves feel guilty that those behaviors occur.”²⁷

37. The Ministry of Education plays a fundamental role in the efforts to prevent violence among children and adolescents. One positive accomplishment is in the prevention of “bullying” or violence amongst school students. Law N° 29719 has been in place since 2011. The law promotes coexistence or living together without violence in educational institutions. The Law was regulated in 2012 and defines violence in the following manner:-

“The deliberate use of physical force or power, be it of degree, in the form of threat or actual use, against oneself, another person, or a group or community, which causes or may cause injuries, death, psychological harm, developmental disorders, or deprivations.”²⁸

38. This coalition considers that Law no. 29719 and its statutes is a significant step forward in the prevention of violence in the schools, but it fails to deal with the complexity of the problem of violence that takes place against children and adolescents in their families which manifests unfailingly in aggression among school age children as “bullying”. According to professional opinion, a child who is mistreated by his/her family tends to act similarly with his/her classmates and he/she accepts violence as a normal event.

39. This coalition recognizes the progress made by the Peruvian state in the recording of incidences of different types of violence in schools. However the rise of violence against boys, girls and teenagers within families has not been addressed. Societies’ acceptance of this type of violence makes it invisible and complicates the recording of incidents of violence in the home. Only professionals, especially teachers and especially trained parents can detect signs of family violence.

Recommendations

40. In the light of the above we urged the Peruvian government to:-

- 1. Require the Ministry of Education to incorporate the application of Law 30,403 as part of the curriculum that is offered to parents, teachers and students.**
- 2. Request the Ministry of Education to offer formation to Principals of Schools, teachers and other people who work with and for the children who are victims of family violence.**
- 3. Ask the Ministry of the Woman and other vulnerable populations to promote campaigns to eliminate violence, and encourage respectful treatment in the family and in the school.**

VI Implementation of UPR Recommendations

41. In order to more effectively implement the recommendations accepted as part of its UPR we recommend that the Government of Peru:-

1. ensure the effective implementation of UPR recommendations through the establishment, by the time of a mid-term assessment of the current UPR cycle, of a permanent governmental mechanism to liaise with relevant ministries and consult with Civil Society, NHRI's and all relevant stakeholders.

List of Abbreviations

ENAHO National Survey Association of Group Homes

ERI Edmund Rice International

FMSI Marist Foundation for International Solidarity

INEI National Institute of Statistics and Computer Analysis

IFEJANT Institute for the Formation of Educators for Young Adult, Adolescent, and Child Workers – “Mons. German Schmitz”

DEMUNA Municipal Institute for the Defense of Children and Adolescents

MINEDU Ministry of Education

MIMP Ministry of Women and Vulnerable Populations

NNAs Children and Adolescents

PNAIA 2021 The National Plan of Action for Infancy and Adolescence 2012-2021

SISEVE Specialized System of Reporting Cases of School Violence

UNICEF United Nations Children's Fund

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5 <http://www.mimp.gob.pe/webs/mimp/pnaia/pdf/resumen-ejecutivo-IV-informe-PNAIA-2015.pdf>

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