



**Peru's Compliance with International Covenant on Civil and Political Rights: Equality under Law.**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary on draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing regulations on domestic violence.

## EXECUTIVE SUMMARY

1. This report addresses Peru's compliance with its international human rights obligations concerning the respect and protection of women and children in the context of extractive industries in the country.
2. The State fails to protect women adequately in its jurisdiction. The country has made some progress with new amendments and policies to expand the scope of discrimination legislation. Despite these amendments and awareness-raising activities with women, gender-based discrimination remains in the participation of decision-making roles within extractive industries and activities in the country.
3. Women in Peru still face barriers to participation in public and political life, especially women living in rural areas and working in artisanal mining. Women also face significant barriers to adequate employment.

### **Peru fails to uphold its obligations under the International Covenant on Civil and Political Rights**

#### **I. Peru is failing its obligation of non-discrimination (arts. 2, 3, and 26)**

##### *Gender Equality*

4. In its List of Issues Report, The Human Rights Committee requested information about the measures adopted by the Peruvian State to increase the proportion of women in decision-making positions in public- and private-sector employment.<sup>1</sup>
5. In its response to the List of Issues, The State reported the adoption of the National Gender Equality Policy. The Peruvian also provided detailed information about multiple and diverse actions and policies taken to enhance the protection and fulfillment of women's rights and other marginalized communities.<sup>2</sup> The Peruvian government omitted the report of targeted policies for women working with and impacted by extractive industries.<sup>3</sup>
6. The Advocates have exhibited in the report *Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries* that Peru has a low rate of women participating in senior levels of employment, and consequently, women endure low wages compared to their male counterparts, discrimination in the workplace, termination for pregnancy, among others.<sup>4</sup>
7. Women are underrepresented in accessing the workplace and decision-making positions in extractive economy industries because of systemic discrimination, stereotypes, and harmful practices in Peru. Barriers to women's participation in these industries are intersectional by

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<sup>1</sup> Human Rights Committee, *List of issues prior to submission of the sixth periodic report of Peru*, (Sep. 4, 2017), U.N. Doc. CCPR/C/PER/QPR/6. ¶ 3.

<sup>2</sup> Human Rights Committee, *Sixth periodic report submitted by Peru under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2018*, (Feb. 27, 2020), U.N. Doc. CCPR/C/PER/6. ¶ 163.

<sup>3</sup> Human Rights Committee, *Sixth periodic report submitted by Peru under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2018*, (Feb. 27, 2020), U.N. Doc. CCPR/C/PER/6. ¶ 163.

<sup>4</sup> The Advocates for Human Rights, *Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries*, (Minneapolis, Minnesota: Jan. 2019), 22, [https://www.theadvocatesforhumanrights.org/Res/promoting\\_gender\\_diversity\\_and\\_inclusion\\_in\\_the\\_oil\\_gas\\_and\\_mining\\_extractive\\_industries.pdf](https://www.theadvocatesforhumanrights.org/Res/promoting_gender_diversity_and_inclusion_in_the_oil_gas_and_mining_extractive_industries.pdf).

bringing in factors such as race, ethnicity, or immigrant status.<sup>5</sup> An example of stereotypes affecting access to the job market is the superstition held that if a woman were near the mines, the mine would go dry.<sup>6</sup> Subsequently, the entire extractive industries sector continues to be widely male-dominated, both in workforce and culture.<sup>7</sup> To mitigate these harmful practices and beliefs, The Advocates observed that “[...] Research shows that companies with more women employees and gender-diverse teams have better teamwork, communication, and greater creativity in solving business and technical problems than homogenous work forces”.<sup>8</sup>

8. The Peruvian government issued the *La Política Nacional Multisectorial para la Pequeña y Minería Artesanal* by the Supreme Decree N° 016-2022-EM. According to the Peruvian government, the priorities of such policy are: “1) Reducing social and environmental precariousness through the development of technical and operational skills; 2) Increasing access to formal value chains; 3) Increasing access of small-scale and artisanal miners to mining rights and surface land; and 4) Improving inter-institutional coordination of entities linked to small-scale and artisanal mining.”<sup>9</sup>
9. According to the organization Alliance for Responsible Mining, the national policy fails to address four critical issues: i) the current mining projects in indigenous territories at the Amazons, ii) concession titles on local communities and the consequently illicit mining on those territories, iii) omissions of cultural impacts to communities by the mining sector and, iv) the absence of interconnection between other relevant national policies such as the National Policy for Culture 2030 and the National Policy for Gender Equality [*Política Nacional de cultura al 2030 y la Política Nacional para la Igualdad de Género*].<sup>10</sup>

## **II. Peru fails to prevent and eliminate trafficking, slavery, and servitude (arts. 7, 8, 14, and 24) in extractive industries.**

10. In its List of Issues, The Human Rights Committee required Peru to provide information about measures adopted to prevent and eliminate trafficking in persons, forced labor, and domestic

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<sup>5</sup> The Advocates for Human Rights, Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries, (Minneapolis, Minnesota: Jan. 2019), 24, [https://www.theadvocatesforhumanrights.org/Res/promoting\\_gender\\_diversity\\_and\\_inclusion\\_in\\_the\\_oil\\_gas\\_and\\_mining\\_extractive\\_industries.pdf](https://www.theadvocatesforhumanrights.org/Res/promoting_gender_diversity_and_inclusion_in_the_oil_gas_and_mining_extractive_industries.pdf).

<sup>6</sup> Interview with an advocate on The Advocates for Human Rights, Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries, (Minneapolis, Minnesota: Jan. 2019), 23, [https://www.theadvocatesforhumanrights.org/Res/promoting\\_gender\\_diversity\\_and\\_inclusion\\_in\\_the\\_oil\\_gas\\_and\\_mining\\_extractive\\_industries.pdf](https://www.theadvocatesforhumanrights.org/Res/promoting_gender_diversity_and_inclusion_in_the_oil_gas_and_mining_extractive_industries.pdf).

<sup>7</sup> The Advocates for Human Rights, Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries, Minneapolis, Minnesota: Jan. 2019), 32, [https://www.theadvocatesforhumanrights.org/Res/promoting\\_gender\\_diversity\\_and\\_inclusion\\_in\\_the\\_oil\\_gas\\_and\\_mining\\_extractive\\_industries.pdf](https://www.theadvocatesforhumanrights.org/Res/promoting_gender_diversity_and_inclusion_in_the_oil_gas_and_mining_extractive_industries.pdf).

<sup>8</sup> The Advocates for Human Rights, Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries, (Minneapolis, Minnesota: Jan. 2019), 13, [https://www.theadvocatesforhumanrights.org/Res/promoting\\_gender\\_diversity\\_and\\_inclusion\\_in\\_the\\_oil\\_gas\\_and\\_mining\\_extractive\\_industries.pdf](https://www.theadvocatesforhumanrights.org/Res/promoting_gender_diversity_and_inclusion_in_the_oil_gas_and_mining_extractive_industries.pdf).

<sup>9</sup> Ministerio de Energía y Minas, *Ejecutivo aprueba la Política Nacional Multisectorial para la Pequeña Minería y Minería Artesanal al 2030*, Nota de prensa. 25 de noviembre de 2022, Available at: <https://www.gob.pe/institucion/minem/noticias/674400-ejecutivo-aprueba-la-politica-nacional-multisectorial-para-la-pequena-mineria-y-mineria-artesanal-al-2030>

<sup>10</sup> Alliance for Responsible Mining, *Desafíos de la nueva política MAPE del MINEM en el Perú*, <https://www.responsiblemines.org/2022/09/desafios-de-la-nueva-politica-mape-del-minem-en-el-peru/>

servitude. The Human Rights Committee also requested statistics on reported cases and the following investigation, prosecution, sanctions, and remedies for those cases. Regarding prevention measures, The Human Rights Committee asked for information about whether the State implements specialized training for all relevant actors and counts with mechanisms for cooperation between the various institutions and with neighboring countries.<sup>11</sup>

11. **Although Peru has taken steps towards implementing and adopting more comprehensive anti-sex trafficking and forced labor measures, the State party did not report any specific actions to date to target potential trafficking and forced labor in extractive industries specifically.**<sup>12</sup> Therefore, The Peruvian State did not provide information regarding measures taken to prevent and eliminate the trafficking of persons and forced labor in extractive activities, particularly in zones with significant mining activities, and in informal and small-scale mining.<sup>13</sup> The Peruvian government provided data to the Human Rights Committee about the department *Madre de Dios* having one of the highest incidences of trafficking with 566 cases —see paragraph 15—. <sup>14</sup>
12. The informal and small-scale mining of gold in Peru has been reported to have children in situations of forced labor, child trafficking, and the use of children for commercial exploitation due to isolation and lack of government presence in the communities. Moreover, children are exposed to dangerous conditions such as mercury and gas poisoning, wall and mine collapses, explosive accidents, and landslides. <sup>15</sup>
13. Regarding child trafficking, reports have indicated that despite Peru’s efforts, the investigations and prosecutions of child trafficking in illegal mining areas and bars have been insufficient. The lack of efficiency in accountability measures results from inadequate training for investigators, police, and members of the judicial system, inadequate funding and officers, and low conviction rates. <sup>16</sup>
14. The specific risk individuals suffer in the context of illegal mining is well-known by the Peruvian government, as detailed by the Public Ministry of Peru and the Organization of International Labour. The research observed that departments like *Madre de Dios* are notorious for labor exploitation in the context of illegal mining of gold. Victims are mainly recruited

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<sup>11</sup> Human Rights Committee, *List of issues prior to submission of the sixth periodic report of Peru*, (Sep. 4, 2017), U.N. Doc. CCPR/C/PER/QPR/6. ¶ 18.

<sup>12</sup> Human Rights Committee, *Sixth periodic report submitted by Peru under article 40 of the Covenant pursuant to the optional reporting procedure*, due in 2018, (Feb. 27, 2020), U.N. Doc. CCPR/C/PER/6.

<sup>13</sup> Human Rights Committee, *Sixth periodic report submitted by Peru under article 40 of the Covenant pursuant to the optional reporting procedure*, due in 2018, (Feb. 27, 2020), U.N. Doc. CCPR/C/PER/6. ¶ 156-174.

<sup>14</sup> Human Rights Committee, *Sixth periodic report submitted by Peru under article 40 of the Covenant pursuant to the optional reporting procedure*, due in 2018, (Feb. 27, 2020), U.N. Doc. CCPR/C/PER/6. ¶ 163.

<sup>15</sup> U.S. Bureau of International Labor Affairs, *Child Labor and Forced Labor Reports: Peru*, by U.S. Department of Labor (Washington DC, 2021), 2.

[https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2021/Peru.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2021/Peru.pdf).

<sup>16</sup> U.S. Bureau of International Labor Affairs, *Child Labor and Forced Labor Reports: Peru*, by U.S. Department of Labor (Washington DC, 2021), 6.

[https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2021/Peru.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2021/Peru.pdf).

through false labor conditions and forced to work by placing the workers in a cycle of indebtedness.<sup>17</sup>

15. In this matter, in the report Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries The Advocates observed, “in locations where mines are less regulated or even illegal, however, it can foster human trafficking, labor exploitation, and environmental damage.”<sup>18</sup>
16. Particularly about mining and its impacts on women, The Advocates have noted in the cited report: “Women in artisanal mining may be more vulnerable to risks, as they typically live in rural or semi-rural areas where socio-economic and environmental conditions may be harsh. In addition, risks are exacerbated due to a number of factors, including the transient nature of artisanal mining communities, the presence of many young men, the daily flow of cash, and high rates of alcohol and substance abuse. Artisanal mining is often also characterized by socio-economic problems, including poor camp conditions, resulting in substance abuse and sexual activity, child labor, environmental damage and localized inflation. In particular, the incidence of sexual and gender-based violence against women can be higher in artisanal and small-scale mining communities when certain factors are present, such as a weak or non-existent traditional village authority, the limited presence of police and judicial authorities, a workforce consisting of men who are without their families, harmful beliefs that subordinate women, cultural practices that condone sexual and gender-based violence, and the prevalence and acceptance of the commercial sex trade”.<sup>19</sup>

### **III. Suggested recommendations for the Government of Peru**

17. The Advocates for Human Rights respectfully suggest the Committee to provide the following recommendations to the Government of Perú:
  - Ensure the annual data compilation and publishing data annually about all reported cases of gender discrimination in job settings, as well as any action to investigate and prosecute such actions.
  - Work to dispel cultural attitudes, disinformation, and biases towards women in decision-making roles and work positions in extractive industries.
  - Take steps to assure equality and non-discrimination practices for women in their workplace within the extractive industry.

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<sup>17</sup> Observatorio de la Criminalidad Ministerio Público Fiscalía De La Nación, Trata de personas con fines de explotación laboral en el Perú 2015-2020, by Organización Internacional del Trabajo (Lima, Peru, Feb. 2021), 4–5. [https://www.ilo.org/lima/programas-y-proyectos/WCMS\\_816999/lang--es/index.htm](https://www.ilo.org/lima/programas-y-proyectos/WCMS_816999/lang--es/index.htm)

<sup>18</sup> The Advocates for Human Rights, Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries, (Minneapolis, Minnesota: Jan. 2019), 13, [https://www.theadvocatesforhumanrights.org/Res/promoting\\_gender\\_diversity\\_and\\_inclusion\\_in\\_the\\_oil\\_gas\\_and\\_mining\\_extractive\\_industries.pdf](https://www.theadvocatesforhumanrights.org/Res/promoting_gender_diversity_and_inclusion_in_the_oil_gas_and_mining_extractive_industries.pdf).

<sup>19</sup> The Advocates for Human Rights, Promoting Gender Diversity and Inclusion in the Oil, Gas and Mining Extractive Industries, (Minneapolis, Minnesota: Jan. 2019), 13, [https://www.theadvocatesforhumanrights.org/Res/promoting\\_gender\\_diversity\\_and\\_inclusion\\_in\\_the\\_oil\\_gas\\_and\\_mining\\_extractive\\_industries.pdf](https://www.theadvocatesforhumanrights.org/Res/promoting_gender_diversity_and_inclusion_in_the_oil_gas_and_mining_extractive_industries.pdf).

- Ensure the annual data compilation and publishing of data annually trafficking and forced labor cases within the extractive industry and illegal mining.
- Implement measures that combat impunity in trafficking and forced labor and provide remedies and rehabilitation to the victims.
- Implement positive measures to increase women's employment in decision-making roles.
- Strengthen the criminal justice response to trafficking and forced labor, including the develop measures to support law enforcement and the judiciary's capacity to investigate, prosecute, and punish all forms of such crimes and provide reparation and compensation to victims and their families or dependents, as appropriate.
- Take measures to address systemic institutional absence creating socio-economic and environmental conditions driving human rights abuses such as sex trafficking and forced labor.
- Implement the *La Política Nacional Multisectorial para la Pequeña y Minería Artesanal* with a gender approach in all procedures and projects within the national policy. Primarily ensuring the substantive participation of women in the decision-making process and roles.