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PERU

Denial of the right to maternal and child health

‘This is the law and you can tell whoever you like’

Fidencio lives in Centro Poblado Menor de Ycho-Yanuna, in Huánuco Department. He has four young children, all of whom were born at home. After the birth of his second and third children, Fidencio was fined by the health centre at Panao because his wife had not given birth at the centre. Each time the fine was larger and when his fifth child was born, the health centre demanded 100 nuevos soles (US\$30) from Fidencio’s family. For Fidencio who, like most of the people of Huánuco, grows potatoes for a living, this sum is the equivalent to selling around 1,200 kilos of potatoes. Fidencio went to the health centre to tell the doctor that he could not pay. The doctor reduced the fine by half. Fidencio explained that for him and his family this fine was still too much, to which the doctor reportedly replied: “This is the law and you can tell whoever you like [and we’ll] explain that we are charging what is fair and laid down by law.” The health centre refused to issue a certificate of live birth – an essential document for obtaining a birth certificate for his child – until Fidencio paid the fine.

Interviewed by Amnesty International in July 2005

Despite communications sent by the Ministry of Health in 2003 and 2004 stating that live birth certificates must be given free of charge, Amnesty International (AI) has spoken to a number of health professionals in Peru who regard imposing fines and denying children their live birth certificates for home births as a means of encouraging women to go to the centres. However, it was clear from interviews with the women and men whom these health centres should serve that the effect of the fines was just the opposite.

Punitive fines imposed on desperately poor people are effectively preventing women and children from marginalized communities from accessing essential health services. This is contributing to high maternal and infant mortality rates. According to official statistics, in Huancavelica, one of Peru’s poorest departments, 71 babies in every thousand died at birth in 2000; the figure for the more prosperous capital, Lima, was 17 babies in every 1,000. Although according to the Ministry of Health there has been a reduction in child and maternal mortality in recent years, this improvement has been largely confined to higher income groups.

Punishing people for not attending health centres indicates a deep lack of understanding and awareness of the barriers faced by women from poor and marginalized groups in accessing health services. It also shows that the government has failed to ensure health professionals understand the law – withholding certificates of live births and imposing these fines are illegal.

Identity documents and the denial of rights

Many people from marginalized and poor communities do not have identity documents. Without these documents they cannot register on the Seguro Integral de Salud (SIS) – a health scheme introduced in 2002 which should provide free maternal and infant health services for those who cannot afford to pay – just one of a range of civil, political, economic, social and cultural rights which are denied to those who do not have identity documents.

In 2005 the Office of the National Ombudsman identified fines for women who do not attend prenatal and postnatal check-ups or who give birth at home and charges imposed in some health facilities for issuing a certificate of live birth, as among the key reasons why people have difficulty in obtaining identity documents.

Users and health professionals in the Andes and in Amazonia told AI that the practice of fining women is still widespread. Women who have not had prenatal and postnatal check-ups and whose children were born at home are reportedly fined up to 50 nuevos soles (US\$15). They are then denied a certificate of live birth or access to medical care and other benefits until the fine has been paid.

Although there are no official statistics on the number of people in Peru who have no identity documents, the Office of the National Ombudsman estimated in 2005 that more than three million people were in this position. According to the UN Committee on the Rights of the Child, despite efforts by the authorities to ensure that all children are registered, 15 per cent of the country's under-18s, mostly those living in rural areas, are still not registered. In January 2006, the Committee urged the Peruvian authorities to allocate the necessary resources to improve access to registration.

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Legacy of armed conflict

Discrimination was one of the factors that fuelled the 20-year armed conflict in Peru and that today is reflected in the enormous inequalities which characterize Peruvian society. Women, and in particular Indigenous and peasant women in rural areas, suffered greatly during the conflict. Rape was used as a weapon of war and many women were targeted for other forms of torture and forcible recruitment for work or forced marriage. Years later, they continue to complain of mental and physical health problems, including reproductive health problems, caused by the violence to which they were subjected.

The Truth and Reconciliation Commission, set up after the end of the conflict in 2000, concluded in 2003 that persistent discrimination against poor, Indigenous and peasant communities was one of the factors which contributed to the cycle of violence during the armed conflict. The Commission observed that the veiled racism and contemptuous attitudes prevailing in Peruvian society meant that the deaths of thousands of Indigenous people in poor peasant communities went largely unnoticed and unremarked. In 2003 the Commission recommended that the authorities take urgent steps to address economic, social, ethnic and gender discrimination. While successive governments have made some positive steps in improving access to health care, much remains to be done.

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International human rights law

The Peruvian authorities have an obligation under international human rights law to safeguard maternal and child health. This includes ensuring that health services are equally distributed and that all women and children have equal access to them. The right to enjoy human rights without discrimination is a fundamental principle underlying international human rights law.

The right to health set out in the International Covenant on Economic, Social and Cultural Rights includes not only the right to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe drinking water and adequate sanitation, food and housing, and access to information, including on sexual and reproductive health. According to the UN Committee on Economic, Social and Cultural Rights, this right to health also encompasses the right of peoples and communities to participate in making decisions about health provision.

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Key recommendations

AI calls on the Peruvian authorities to instruct health facilities to:

- Ensure that no illegal fines are imposed on women who give birth at home; and
- Ensure that certificates of live birth are issued for all newborns without charge, whether or not the baby was born in a health facility or at home and regardless of whether the mother attended prenatal and postnatal check-ups.

For more information, see *Peru: Poor and excluded women – denial of the right to maternal and child health* (AI Index: AMR 46/004/2006) which was launched at the III National Conference on Health, Lima, Peru, in July 2006.

Amnesty International, International Secretariat,
Peter Benenson House, 1 Easton Street,
London WC1X 0DW, United Kingdom
www.amnesty.org
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