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# USAID/PERU PRO-INTEGRIDAD

# GENDER INTEGRATION STRATEGY

MAY 2013

May 17, 2013

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# USAID/PERU PRO-INTEGRIDAD

# GENDER INTEGRATION STRATEGY

MAY 2013

**CONSULTANCY ON GENDER INTEGRATION STRATEGY  
APRIL 29 – MAY 11, 2013**

<b>Program:</b>	<b>USAID Promoting Justice and Integrity in Public Administration (Pro-Integridad)</b>
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## **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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## I. INTRODUCTION

The principal objective of USAID/Peru’s Pro-Integrity Project is to support the Peruvian Government, particularly the institutions of the criminal justice system, with the implementation of the new criminal procedure code. Specifically, this technical assistance is intended to provide the Government of Peru (GOP) with improved tools for confronting corruption, in order to facilitate the reduction of corruption-related crimes within the justice system and strengthen the rule of law.

Additionally, there is a need to include a gender focus in the project to ensure that Project activities incorporate equality and fairness as central tenets in order to create institutional consistency and increase the scope and effects of the expected results. Although the principle of gender equality is established in Peruvian constitutional provisions<sup>1</sup>, this principle is currently not reflected in criminal justice system responses to cases of violence against women.

Many countries in the region have made significant advancements in the drafting and passing of specialized legislation aimed at the prevention, prosecution, and punishment of crimes of violence against women. For example, seven Latin American nations have adopted the crime classification “Femicide” in accordance with the “*Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women*,” also known as the “*Convention of Belem do Par *” (1994). In a similar fashion, a majority of countries have amended or passed domestic legislation to conform with the guidelines for the crime of human trafficking as set forth in the “*Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*” a supplement to the United Nations Convention against Transnational Organized Crime (2000). However, the crimes of femicide and the human trafficking of women and children are on the rise in the region, and are being perpetrated in increasingly cruel ways. Moreover, the majority of this criminal behavior is not investigated or punished, resulting in an alarming level of impunity, which demonstrates the justice system’s incapacity to protect women’s rights, even in cases of extremely severe crimes.

The situation is similar with corruption-related crimes, which, like crimes against women, are already regulated by international standards and advanced domestic legislation. Nonetheless, the punishment and eradication of such crimes continues to pose a challenge to the GOP, because the practices of justice officials and the institutional culture obstruct and impede advances in identification and prosecution of those responsible for these crimes.

Furthermore, there is a close connection between both types of crime—corruption and crimes against women—as women are commonly re-victimized during criminal proceedings through intimidation and/or the actions of corrupt public officials:

*“Corruption in the system.....imposes an additional and disproportionate cost that women must bear, as they are the most exposed to attempted bribery for services that should be provided at no cost.”*<sup>2</sup>

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<sup>1</sup> Article 2, paragraph 2 of the Constitution of Peru establishes the right of every individual to "Equality before the law. No one may be discriminated against on grounds of origin, race, sex, language, religion, opinion, economic status or on any other basis.

<sup>2</sup> “El Progreso de las Mujeres en el mundo”. En busca de la Justicia .2011-2012. ONU-MUJERES.

In the case of crimes such as the human trafficking of women and children, illegal migration of women, and child prostitution, which are generally linked to domestic or international organized crime, victims are subjected to discriminatory and prejudicial treatment by justice officials, which is a product of their own patriarchal culture. Moreover, due to the economic power of those responsible for these crimes, public officials often engage in illegal conduct such as influence peddling, bribery, and other conflicts of interest in order to impede investigation, prosecution or punishment of such crimes, thus imposing further misery and suffering on women and granting immunity to perpetrators.

*“Discrimination is a denial of the right to equality, and the prevention of discrimination has been recognized as one of the main human rights principles that States must uphold. This principle, considered as a jus cogens standard (a peremptory norm of international law) has not been adequately recognized from the anticorruption and pro-transparency perspective. Anticorruption strategies would be greatly enhanced by recognizing that acts of corruption, in a sense, are themselves a form of discrimination. In essence, obtaining any advantage or benefit through a corrupt act is a form of arbitrary treatment, that is, a form of discrimination or exclusion of other persons from that advantage or benefit, without any objective and reasonable justification.*

*Corruption is...a violation of the formal principle of equality before the law. But, in a worse sense, corruption has functioned as a way of deepening discrimination against vulnerable groups, because corruption disproportionately impacts the exercise and enjoyment of their rights and liberties.”<sup>3</sup>*

For this reason, the Project’s connection between the law of criminal procedure (new criminal procedure code) and the substantive criminal law (crimes of corruption and violence against women) is essential. Both disciplines and legal practices play an important role in the prevention, prosecution, and punishment of criminal offenses, especially the corruption and violence against women, which contemporarily pose a great challenge for the justice system due to the personal, social, and political harm that they cause, not to mention the existing resistance to the investigation and punishment of perpetrators.

## **II. GENDER FOCUS**

A gender issues analysis is a type of analysis that is conducted to understand and evaluate how public policy, legislation, and specific programs and activities in any field consider the differential impacts that these actions have on women and men, taking into account the distinct roles and attributes assigned to each gender in a given society. The inclusion of a gender focus in national policies and programs is designed to eliminate the factors, conditions, and stereotypes that generate discrimination and inequality between persons based on sex. Specifically, it expects to overcome the current social model that is based on *hierarchization* and *sexualization* of gender, which in itself implies an undervaluation of women’s roles in society.

With respect to the law, as a set of rules and an institutional structure, the incorporation of a gender focus is a challenge that goes beyond the promulgation of specialized laws or judicial resolutions considering a gender perspective. It also means using the law as a “*transformative tool*” to displace current structures of superiority and domination, in order to move towards a

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<sup>3</sup> Report: "Transparency, the fight against corruption and the Inter-American system of human rights." College of Law University of Chile. Centre for Human Rights, 2011

human coexistence based on the acceptance of one's counterpart as a "*legitimate other*," resulting in collaboration and a respect for diversity. (Facio, Alda)

For this reason it is essential to incorporate a gender focus into the Pro-Integridad Project, as it will fortify the institutional support provided to justice sector institutions, as well as civil society organizations (CSOs), as they work to ensure that the implementation of the new criminal procedure code successfully eradicates discriminatory conduct in the provision of public services in the justice sector. In Peru there is a growing demand for justice for women, especially in the cases of serious crimes such as femicide, human trafficking, sexual violence and domestic abuse, among others. There is also great concern for the increasing frequency of violence and extreme cruelty against women, as well as the involvement of criminal organizations in the commission of these crimes (organized crime).

At present, detailed, accurate and up to date information about the number of incidences of violence against women is not available in Peru. However, the preliminary information that is available speaks to the extent of violence against women in the country. According to the Manuela Ramos Movement, in Peru one in every five women below 15 years of age has been a victim of sexual violence and nine out of every ten pregnancies in women under 15 years of age is the result of incest. According to this same source, Peru has the highest rate of reported cases of rape in South America. The Public Ministry's Office Femicide Registry reported that during 2011, 253 women were victims of homicide, 43.9 percent of which were murdered by their own partners. Unfortunately, standardized procedural records are also not available, so there is no information available on case resolution rates or the duration of proceedings.

In 2009, the Deputy Commissioner for Women's Rights, of the Peruvian Office of the Public Defender, released a report entitled "*New Criminal Procedure Code: Approach to Victim Support Mechanisms*." The study exposes serious problems that plague the various state agencies providing legal support and assistance to victims, including: overlapping and redundant functions across agencies, inadequate attention to victims of crime, underuse of protective measures, poor training of administrative personnel, and lack of coordination with the public ministry. In 2011, the Office of the Public Defender also published a report entitled "*Sexual Violence in Peru: An Analysis of Judicial Cases*," which identifies the obstacles faced by female victims of violence who turn to the justice system in order to protect their rights. The report concluded that of all cases studied, prosecutors filed charges in only 41.7 percent of cases, simply dismissed 20.8 percent of cases, chose not to carry out a formal investigation in 16.7 percent of cases, and in a considerable percentage of cases (39.58 percent), the charges were not recognized by the Public Ministry (PM).

Taking into account the above described situation of violence against women in Peru and the state response to this problem, and considering the objectives and components of the Project, **women's rights for access to justice must be included as an over-arching, substantive, and cross-cutting theme in project activities.** These rights must be recognized and protected through the criminal procedure process, for example, through the implementation of the new Criminal Procedure Code, as it is the most appropriate means through which to ensure that women receive fair trials and equal treatment under the law.

Diverse international and regional resolutions on Human Rights, such as the American Convention on Human Rights and the Convention of Belem do Pará, understand this right as "de jure and de facto access to judicial resources and processes protecting individuals against acts of violence." According to sentences of the Inter-American Court of Human Rights, access to justice is:

*“An effective indicator of citizenship, that all human beings have an equal right to enjoy without discrimination, which, although not circumscribed by the formal existence of a legal system, requires a legal system suitable enough to investigate, punish, and redress alleged violations in order to ensure de jure and de facto access to justice.”*

Therefore *“it is an obligation of means, not of result, that the State must assume as its own legal duty, not simply as a mere formality preordained to be ineffective.”*

### **III. THE PRO-INTEGRIDAD PROJECT IN THE CONTEXT OF CRIMINAL PROCEDURE CODE REFORM IN PERU**

The Criminal Procedure Reform movement in Latin America during the 1980s resulted in the adoption of the adversarial model by the majority of national legal systems, which has led to the renewal of judicial institutions, transformation of procedural culture, and allocation of greater financial and human resources towards the administration of justice.

In 2004, after an important and prolonged debate about the effectiveness of the national justice system, and considering the urgent need to modernize and democratize the criminal justice system, Peru adopted a new Criminal Procedure Code. This new Code, which follows the adversarial system<sup>4</sup>, is underpinned by the principles of orality, transparency, due process, adversarial challenge, investigation, efficiency, and the protection of the rights of the parties to the proceedings, among others.

It is clear that the implementation of a new procedural model requires an extensive capacity to make a positive impact on the public, therefore:

*“Success will be measured by the justice system’s demonstrated capacity to provide criminal justice related public services in an appropriate manner, with respect to fundamental rights, accountability, integrity in public administration, and the guarantees and principles of due process.”<sup>5</sup>*

In this context USAID has agreed to work with the Government of Peru to support the criminal procedure reform. The Pro-Integridad Project is the mechanism through which USAID will support the “establishment of sustainable systems and methodologies, and to generate the skills necessary to strengthen the capacity of the Peruvian justice system,” which will permit the promotion of justice and integrity in public administration.

The Project has proposed the following principal objectives:

1. Increase the capacity of the judicial system to resolve cases of corruption;
2. Increase the capacity of the judiciary to deal with internal corruption; and
3. Strengthen the capacity of the judiciary to fight corruption through effective engagement with civil society.

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<sup>4</sup> In the adversarial system the functions of investigation, prosecution and judgment are completely separated in order to ensure impartiality. The prosecuting attorney cannot at the same time function as a judge. The judge is responsible for evaluating the evidence gathered by the prosecutor during the investigation. The judge issues the ruling, and cannot simultaneously take on a fact-finding role without compromising the impartiality of the proceedings.

<sup>5</sup> USAID/Peru Pro-Integridad Project Year One Work Plan.

And it is within this context of legal and institutional transformation of the country, as well as the objectives and components of the Project, that a gender focus needs to be integrated, not only as a set of activities, but as a mindset that will permeate the activities and results of the project, and more than anything influence cultural change in order to ensure greater transparency, integrity and equality in the administration of justice.

#### **IV. GENDER INTEGRATION STRATEGY**

According to the terms of the consultancy, “gender equality is a critical cross-cutting component of the principal results and objectives of the Pro-Integridad Project.”

The statement above implies that in all components and activities, the Project will uphold the principle of equality between men and women and promote access to justice services for women on equal terms and without discrimination. The Project’s efforts to connect the procedural aspect of criminal law with institutional and political issues of central importance, such as transparency, integrity, equality, and elimination of discrimination in criminal investigation and prosecution, will have a significant impact on the achievement of important qualitative transformations, especially the transformation of institutional culture.

Moreover, the Project must address the acute problem of **institutional impunity**, especially in cases of crimes against women, because continued impunity fosters chronic recidivism among perpetrators of violence, leaving victims completely defenseless.

Therefore, the Project will ensure a gender focus by concentrating on the topic of women's access to justice, which is understood as a subjective procedural right and a State obligation.

The following proposals and recommendations are based on the reaffirmation of the instrumental nature of the criminal procedure law, including women’s access to justice rights, to the extent that the function of criminal procedure law is to “regulate the application of the criminal law” and therefore serve the public by facilitating the resolution of conflicts in a timely and fair manner and strengthen public confidence in the rule of law.

##### **A. ACTIVITIES CARRIED OUT DURING CONSULTANCY**

During two week consultancy in Peru, the consultant gained access to reliable information on the process of criminal procedure reform, the current state of the implementation of the Criminal Procedure Code, and the main challenges frustrating the justice system’s efforts to investigate, prosecute and punish violent crimes against women.

Regarding the situation of the justice system with respect to women, the consultant took into account two reports from the Office of the Public Defender: “*Sexual Violence in Peru: An Analysis of Judicial Cases*” and “*New Criminal Procedure Code: Approach to Victim Support Mechanisms*.” The consultant also reviewed the Justice Studies Center for the Americas (CEJA) report “*Criminal Procedure Reform in Peru: Progress and Challenges from Experiences en Huara and La Libertad*.”

The consultant also reviewed additional references because of their specificity to the subject matter, including “*Guide for Assessing Psychological Damages in Adult Victims of Domestic Violence, Sexual Abuse, Torture, and Other Forms of Intentional Violence*” prepared by the Public Ministry's Office in 2011, as well as studies prepared by the Flora Tristan Women’s

Center (also in 2011), *“Perceptions of Indigenous Justice and State Justice”* and *“Proposed Guidelines for a Law of Coordination between Indigenous Justice and Formal Justice.”*

The consultant gained access to statistics on murders of women and femicide, provided by the Public Ministry's Office, as well as quantitative information on sexual violence compiled by the Manuela Ramos Movement.

The consultant met with individuals from key organizations that advocate for the advancement of women's rights, including members of CSOs and officials from the offices of the Ministry of Women and Social Development, Ministry of Justice, Public Ministry, Public Defender, and Ombudsman, as well as representatives from different political parties (see Annexes for a detailed account of the contents of the interviews).

Additionally, the consultant conducted a workshop at the Ministry of Justice on *“Regional Experiences in the Implementation of a Gender Focus in the Administration of Criminal Justice.”* Participants included the Deputy-Minister of Human Rights and the Technical Secretary of the Special Committee for the Implementation of the Criminal Procedure Code, as well as officials from various branches of the Ministry of Justice.

Based on these meetings and interviews, the consultant concluded that the representatives of the public sector are committed to the implementation of the new Code. Their main concern is the acquisition of the material resources and trained personnel that will be necessary to achieve the goals of the new Code, in terms of geographical coverage and the efficient provision of access to justice to the public.

CSOs expressed confidence in the new criminal procedure model. They consider it to be an important regulatory advancement for the country, which, if properly implemented, will lead to improved responses to crimes against women in the criminal justice system. Nonetheless, uncertainty remains about the reality of institutional operations and the application of principles such as orality and publicity with respect to crimes against women. CSOs are also concerned about the appropriate use of protective measures by authorities, such as the function and coordination of care and protection services for victims, witnesses, and other participants in the process. They emphasize the need for proper coordination between prosecutors and police and are particularly concerned with the current level of training for officials who must address these issues. CSOs believe that a major challenge currently facing authorities is the lack of material resources and staff with appropriate training (relating to gender), which currently prevents the proper processing, investigation and prosecution of the high number of reported crimes against women, especially trafficking, femicide, and sexual and physical abuse. Moreover, different CSOs highlighted **the need for comprehensive and specialized legislation to prevent violence against women**, which incorporates public policy components aimed at prevention, the creation of specific criminal charges and punishments related to gender-based violence, as well as the **creation of specialized institutions designed to investigate and resolve this type of crime.**

After reviewing the relevant information, conducting interviews, holding various conversations with authorities from the justice sector, and collaborating with the Project Team, **it is clear that a political will to advance the implementation of the Code does exist**, as well as an interest in collaboration in order to ensure that the new procedural system is accessible to women who are victims of crime, taking into account their diverse ethnic and social realities.

## **B. RECOMMENDATIONS FOR FUTURE ACTIVITIES**

According to the information collected, the terms of reference for the consultancy and the objectives and components of the Project, the consultant proposes a series of concrete actions to be carried out during the start-up phase of the Project, as well as throughout the course of the project, in order to implement a gender focus, based on the principle of women's access to justice.

### **1. Project Start-Up Phase**

#### **1.1 Sensitize the Pro-Integridad Project Team to the situation of exclusion and violence currently suffered by women in Peru as well as the inadequate responses of the justice system to violent crimes against women.**

It is necessary for the Project Team to have an in-depth understanding of the special legislation protecting women's rights, as well as the application of these laws in the criminal justice system, especially in terms of procedural guarantees and opportunities offered by the new model of investigation and criminal proceedings. Of equal importance is access to national and international regulations governing the principles of women's access to justice, as well as the jurisprudence of the Inter-American Commission on Human Rights (IACHR) in this regard. In order to achieve this, it is recommended that the Project:

- Identify a **basic bibliography** on the Analysis of the Criminal Justice System in terms of women's issues, as well as specialized legislation and national and international jurisprudence on the topic;
- Identify **experiences and best practices** from the implementation of a gender focus in the administration of criminal justice;
- Maintain a **continuous dialogue** with institutions such as the Ministry of Women and Social Development, the Public Defender, and CSOs which will allow the team to stay well-apprised of incidences of negligence and corruption of the administration of justice as it affects women's access to justice.

**1.2 Include an assessment in the baseline study** of the management models used among prosecutors and judges in targeted districts, as well as an assessment of the case management systems and procedures and administrative practices, that permits a quantitative and qualitative evaluation of the judicial practice and culture regarding instances of gender-based violence and its effect on the efficient delivery of justice-related services to the public sector.

To this end the consultant recommends inquiring about:

- Knowledge and / or sensitivity of justice officials to violent crimes;
- The increased workload implicated by the increasing amount of reported incidences of violence against women;
- The perception of justice officials regarding the challenges and possibilities created by the new Criminal Procedure Code for guaranteeing women's access to justice.

**1.3 In terms of the Project's communication activities**, incorporate in the Project Launch Conference inclusive language in messages about criminal justice system reform, emphasizing the challenges and possibilities created by the new Criminal Procedure Code for minimizing the obstruction of justice and eliminating delays and impunity in cases of violence against women.

Recommendations:

- Present the main Project activities as part of the Gender Integration Strategy;

- Invite State institutions involved in the promotion of women’s rights, such as the Ministry of Women and Social Development, Public Defender, the Congressional Commission on Women and Families, as well as CSOs like the Manuela Ramos Movement and the Flora Tristan Women’s Center to the Project Launch Conference;
- Gather information on urban and rural organizations and institutions in order to spread awareness of procedural reform based on the principles of the right of access to justice, integrity and transparency.

## **2. Project Work Plan**

During the implementation of programs and activities in Project Year 1, specifically as it relates towards the goal of strengthening the skills of judges, prosecutors and support staff, the consultant proposes the inclusion of a **Gender Sensitivity Training** on women’s right to access to justice and gender-sensitive methods for the investigation and prosecution of crimes.

### **2.1 Include a module on the gender perspective and its interrelation with acts of corruption and gender-based violence in the Project's overall training plan related to the criminal procedure code**

Recommendations:

- Promote the study of enforcement of equality principles, non-discrimination, and due diligence in procedure and practice as they relate to women’s access to justice;
- Incorporate the study of “high profile” cases where bureaucratization or corruption among officials obstructed access to justice for women.
- Develop texts on legal and jurisprudential development of women’s right of access to justice and its inclusion in the new procedural rules;
- Develop manuals on the investigation and prosecution of crimes from a gender perspective.

### **2.2 Support the creation of a specialized interdisciplinary training program on the criminal justice system’s response to gender-based violence**

This training program could be incorporated as part of the regular training of justice sector institutions, such as the Public Prosecutor’s Office, Judiciary, Department of Justice, Victim and Witness Care and Protection Programs, and forensic and investigative staff. The aim is to encourage a comprehensive discussion on the management of the criminal justice system, in order to guarantee women's rights for access to justice.

Recommendations:

- Develop participant profiles during the training program;
- Develop programs and content for each module, tailored to the procedural stage that is being studied: (a) investigation; (b) prosecution; (c) judicial review and sentencing.
- Develop performance monitoring and evaluation criteria for procedural management with a gender perspective.
- Collect and organize relevant jurisprudence from regional and international courts concerning the right of access to justice for women.
- Develop training materials for each module including: legislation on women’s rights, IACHR jurisprudence on the right of access to justice for women, and case studies.

### **2.3 Support justice sector agencies in the systematization, harmonization, and/or elaboration of protocols, manuals, and/or guides for providing care and services to women who are victims of violence**

Recommendations:

- Identify existing efforts within justice sector institutions on protocols and guidelines;
- Identify CSOs working to develop such documents;
- Offer technical assistance in the elaboration or harmonization of existing documents;
- Train officials in the utilization of these resources.

#### **2.4 Support (rural and urban) CSOs that provide legal advice in “high profile” cases of crimes of violence against women**

CSOs, particularly those run by women, have participated in the procedural process of special interest cases. This has led to the development of best practices in the management of cases of violence against women and the recognition of the right of access to justice for women.

Recommendations:

- Identify organizations with skills and experience in strategic litigation and defense of women’s human rights;
- Identify specific cases of violence against women, where there is evidence of actions by judicial officers to hinder or impede access to justice, that could be used as high profile cases;
- Provide technical support to selected organizations charged with management of the process;
- Include information about case management and the improvements realized as a result of the new Code in project communication activities.

#### **2.5. Develop a working methodology with magistrates and judges in order to incorporate a gender perspective into sentencing for crimes of violence against women**

While important judicial resolutions that incorporate a gender perspective already exist in Peru, it will be necessary to systematize and disseminate these practices among judges in order to promote increased use of these concepts in case resolution.

Recommendations:

- Identify judgments of high courts applying international conventions and specialized legislation on the resolution of cases of violence against women;
- Identify regional jurisprudence applying conventions on the protection of women’s rights;
- Conduct study sessions and exchanges of experiences and best practices on the development of gender-sensitive judgments with judges from different levels of criminal courts;
- Exchange experiences with Latin American judges who have developed special methodologies for issuing judgments with a gender perspective Compile and organize gender-specific jurisprudence.

### **C. ADDITIONAL RECOMMENDATIONS**

Considering the positive response of the Project's counterparts to the proposed development and execution of institutional policies that have a gender focus, this document offers additional recommendation, which although not strictly tied to specific components and activities of the Project, are relevant because of their impact on women’s access to justice.

Beyond the currently planned coverage of the Project, the following advocacy activities could also be conducted:

## **1. Promote discussion and adoption of specific legislation on violence against women and improved resources to guarantee care and assistance to victims**

There are several bills currently under consideration, some in legislative committees, which are directed towards Criminal Procedure Code reform and/or drafting of specialized legislation aimed at criminalizing specific gender-based violence conduct.

It would be ideal to conduct a review of these bills according to the principle of women's right to life and personal integrity, in line with other general principles of criminal law such as proportionality of punishment, minimizing the intervention of criminal law, respect for the traditional laws and norms of indigenous communities, and due diligence.

Recommendations:

- Support Congress, particularly the Commission on Women and Families, and the Parliamentary Committee for Women, as well as other parliamentary authorities with comparative studies of legislation on this issue;
- Support institutions such as the Ministry of Women and Vulnerable Populations in preparing draft legislation and lobbying the legislature;
- Support CSOs, especially indigenous women's and women's rights organizations, in the drafting, promotion, and lobbying of legislation related to gender and ethnicity, as well as the subsequent implementation of any adopted legislation.

## **2. Creating specialized institutions on crimes of violence against women. Public Prosecutor specializing in violent crimes against women**

Closely related to the previous point is the promotion of justice sector institutions specializing in crimes of violence against women. While the creation of a specialized court would only be possible by statute, the same is not true with the creation of a specialized Prosecutor's Office to deal with these crimes.

According to Article 80-B of the Public Ministry's Office Act, the Attorney General, upon authorization of the Board of Prosecutors, has the authority to “*appoint Prosecutors to intervene, according to their designation, in the investigation and prosecution of any interrelated crimes or any crimes exhibiting similar characteristics that require a specialized intervention by the Public Ministry.*”

## **D. CRITERIA FOR MONITORING & EVALUATION**

The evaluation criteria for the Project's Gender Integration Strategy will be largely qualitative. Through the execution of the planned activities, the Project expects to raise justice officials' awareness of the violence currently suffered by Peruvian women and sensitize them to the specificities of crimes against women.

Possible quantitative evaluation criteria may include:

- Number of training courses conducted with a focus on gender issues;
- Number of judges, prosecutors, investigators, and forensic experts trained on the gender issues;
- Number of working groups conducted on sentencing with a gender perspective;
- Number of judgments issued with a gender focus;

- Amount of training materials published;
- Number of Civil Society Organizations adopting a gender focus associated with the Project;
- Number of indigenous women’s organizations associated with the Project;
- Number of public events held to raise awareness of the criminal procedure reform, with emphasis on the right of access to justice;
- Number of “High Profile” cases followed and technically supported by the Project

## **V. FINAL CONSIDERATIONS**

Undoubtedly, the USAID/Peru Pro-Integridad Project’s efforts to include a Gender Integration Strategy is an important step in the in efforts to provide technical support to justice sector institutions in the implementation of the new Criminal Procedure Code.

Further, this approach offers a way to measure the medium-term impact of the reforms on the resolution of cases of gender-based violence and, also contributes to the reduction of impunity in such cases, which is an issue of national concern because of the negative impacts that such impunity causes in the lives of women and also in the country's human development.

A gender focused approach to justice will restore the confidence of women and the general public in the administration of justice, and consequently increase confidence in democratic institutions as a whole.

## VI. ATTACHMENTS

### ATTACHMENT A Tt DPK Pro-Integridad Project

#### Proposed Work Plan for Developing Gender Integration Strategy

##### Purpose of Consultancy:

- Conduct high-level meetings with authorities from the criminal justice system and other institutions in order to facilitate the inclusion of the perspectives of gender and vulnerable populations within the public policies of the justice sector;
- Collect and analyze information and data concerning the treatment of women, indigenous peoples and Afro-Peruvians in the context of criminal justice reform in Peru;
- Recommend a design and approach to ensure the inclusion of a gender perspective in Project development and outcomes;
- Formulate recommendations and activities to be included in the Project Communications Strategy and support to CSOs that promote the awareness of the criminal justice reform and the Criminal Procedure Code, focused on the rights of women and members of diverse ethnic communities;
- Facilitate communications and relationships between CSOs and national justice system authorities in order to address issues related to gender and vulnerable populations.

Key Interviews: requested through USAID.

1. Dr. Marcela Huaita Deputy Minister for Women and Vulnerable Populations;
2. Congress: Dr. Rosa Mavila and other representatives who are proponents of specialized legislation, and comments on the implementation of the crime of femicide, Law 29829 amending Article 107 of the Criminal Code.

#### Proposed Agenda of Activities: April 29 - May 10, 2013:

Date/Time	Activity/Meeting	Location
Sunday 4.28	Travel to Lima and Arrival at Marriott Hotel	Airport Taxi Felix Alca: phone 943501189
Monday 4.29 7:45 a.m. - 10:00 a.m.	Transfer to Project Office for meeting with Pro-Integridad technical and management teams	Project Office: Calle Caminos del Inca 670 6 <sup>th</sup> floor SURCO. Telephone: 2175200 Attachment 673
Monday 4.29 10:00 a.m. - 12:00 p.m.	Meeting at USAID	Contact: Martín Castro Ave. La Encalada cuadra 17, Monterico Surco, telephone: 5116181486 cel. 9905362450
Monday 4.29 3:00 p.m. - 5:00 p.m.	Meeting at Ministry of Justice to Coordinate Event	Contact: Giuliana Falco Ministry of Justice
Tuesday 4.30 10:30 a.m. - 12:00 p.m.	Guatemalan Embassy	Calle Inca Ripac 309 Jesús Maria cdra. 7 y 8 de Av. San Felipe. Confirmed

Tuesday 4.30 2:00 p.m. - 5:00 p.m.	Meeting with Pro-Integridad Team	Project Office
Wednesday 5.1	Work at hotel during holiday	
Thursday 5.2 9:00 a.m. - 12:00 p.m.	Meeting at Public Ministry Conversations about National Plan for Gender Equality; Violence and Human Trafficking. Dr. Leticia Silva, Dr. Miluska Romero, Dr. Rita Figueroa	Contact: Carmen Condorchúa, Avenida Abancay cuadra 5, 8 <sup>th</sup> floor Lima Escuela del Ministerio Publico
Thursday 5.2 4:00 p.m. - 6:00 p.m.	Interview with Flora Tristan Women's center	Parque Hernán Velarde No. 42. Lima. Telephone: 433-2000 y 4330694 email: postmast@flora.org.pe
Friday 5.3 11:00 a.m. - 1:00 p.m.	Ministry of Women: Deputy Minister Dr. Marcela Huaita Alegre	Jr. Camaná 616, Cercado de Lima.
Friday 5.3 2:00 p.m. - 5:00 p.m.	Available	
Monday 5.6 9:00 a.m. - 11:00 am	Congresswoman, Luisa Cuculiza	Calle Huallaga N° 364, Lima Telephone 3117562, Contact doctor Dora Coz
Monday 5.6 11:30 a.m. - 1:30 p.m.	Public Defender, Dr. Imelda Tumialan, Team Leader for Criminal and Penal Matters	Jr. Ucayali 388 cercado de Lima. Cellular 995622766/959796543
Tuesday 5.7 08:00 a.m. - 1:00 p.m.	Available	
Tuesday 5.7 3:00 p.m. - 5:00 p.m.	Available	
Wednesday 5.8 09:00 a.m. - 11:00 a.m.	Inter-Ethnic Association for the Development of the Peruvian Amazon (AIDSESP)	Avenida San Eugenio N° 981, Santa Catalina, Lima, cell 959621434
Wednesday 5.8 11:00 a.m. - 1:00 p.m.	Congresswoman, Gladys Condori	Jirón Azángaro N° 468, oficina N° 608, Lima. Contact. Doctor Vanessa Sierra 991 147655
Wednesday 5.8 2:00 p.m. - 5:00 p.m.	Lizbeth Guillen Program Manager for Political Participation and Public Policy: "Manuela Ramos" Movement	Av. Juan Pablo Fernandini # 1550, Pueblo Libre - Lima.
Thursday 5.9 7:30 a.m. - 11:00 a.m.	Breakfast with the Technical Secretariat of the Special Commission for the Implementation of the CPP	Hotel Sol de Oro
Thursday 5.9 2:00 p.m. - 4:30 p.m.  15:00 p.m. - 16:00 p.m.	Meeting with Pro-Integridad Project for progress report Meeting with Ernesto Lechuga Pino, Director General of the Public Defender and Access to Justice	Office of the Public Defender
Friday 5.10 10:00 a.m. – 12:00 p.m.	Workshop in the Ministry of Justice Vice Minister of Human Rights Zoe Carlos Vasquez. Technical Secretary: Special Committee on Implementation of the Criminal Procedure Code	Office of the Public Prosecutor
Friday 5.10 3:00 p.m. - 4:00 p.m.	Meeting with USAID Officials Carla Thanasi , Martín Castro	Project Office

## **ATTACHMENT B**

### **Meeting: USAID – United States Agency for International Development**

Date: Monday, April 29, 2013

#### **Participants:**

- Cara Thanassi, Deputy Chief, Office of Democratic Initiatives, USAID;
- Martín Castro, Contracting Office Representative, Office of Democratic Initiatives, USAID;
- Miriam Choy, Development Assistance Specialist, Office of Project and Program Development, USAID;
- Josefina Coutiño, Chief of Party, Pro-Integridad Project;
- Mónica Underwood, Project Officer, Pro-Integridad Project;
- Ana Isabel Garita V., Consultant, Pro-Integridad Project.

During the meeting Ms. Coutiño commented on the consultant objectives relating to the inclusion of the gender perspective in the Project, as well as the importance of holding joint meetings.

Ms. Thanassi expressed her interest in the idea of gender mainstreaming and emphasized the important impact that mainstreaming could have on the implementation and efficiency of the new procedure code.

Ms. Garita (the consultant) noted the importance of taking into account the National Plan for Gender Equality, which requires that the Government of Peru shall make efforts to include the gender perspective in public policy, public services, and legislation.

The consultant also noted the importance of collaboration with CSOs, because these connections are a viable way to evaluate the impact of the new Criminal Procedure Code, as well as the prospect of encouraging women's organizations and/or legal experts to actively participate in the criminal proceedings in "high profile" cases of violence against women.

It is also possible to make a connection between corruption or bureaucratization of justice officials and the violations of women's equal right for access to justice without discrimination. The consultant noted that in some countries, specialized legislation on violence against women provides administrative sanctions and criminal penalties for officials who obstruct or impede women's access to justice.

Finally, those in attendance agreed to hold a joint meeting with USAID, the Project, and the Ministry of Justice, in order to reconvene at the end of the consultancy to review the details of the proposal.

## **ATTACHMENT C**

### Interview: **Ministry of Justice**

Date: Monday, April 29, 2013

#### **Participants:**

- Salvador Herencia Carrasco, Advisor: Viceministerial Office of Human Rights and Access to Justice, Ministry of Justice and Human Rights;
- Andrés Alonso Cárdenas Cornejo, Director of Human Rights Policy and Management, Ministry of Justice and Human Rights;
- Guiliana Falco, Ministry of Justice and Human Rights;
- Martín Castro, Contracting Officer's Representative, Office of Democratic Initiatives. USAID;
- Josefina Coutiño, Chief of Party, Pro-Integridad Project
- Ana Isabel Garita V., Consultant, Pro- Integridad Project

During the meeting Ms. Coutiño explained the goals of the Project, its various components and expected results, and the importance of including a gender perspective in the Project from the initial stages of implementation. She also commented on the importance of this meeting, considering the functions and services performed by the Ministry of Justice.

Ms. Garita (the consultant) noted the importance of taking into account the National Plan for Gender Equality, which requires that the Government of Peru shall make efforts to include the gender perspective in public policy, public services, and legislation. This is especially important as it relates to the Ministry of Justice, considering its diverse programs and the institutions involved with the Public Defender and the Prison System.

Using this approach it will be possible to guarantee that women who are victims of crime are not re-victimized during the investigation and prosecution of the accused parties, or during the incarceration process should the accused be imprisoned.

The Ministry of Justice representatives explained the organization structure of the Ministry of Justice and the programs that are currently in development.

It should be noted that the Office of the Director General of Justice and Gender operates within the Office of the Deputy Minister of Justice, and the Office of the Public Defender and Access to Justice operates within the Viceministerial Office of Human Rights and Access to Justice.

The Public Defender is a key institution because it offers three essential services for women who are victims of violent crime or offenders: public defense, counseling, and technical assistance.

Finally, the attendees agreed to conduct a training with the managing personnel of departments involved with criminal justice/access to justice, during which the consultant will give a presentation on the Gender Integration Strategy in the management of public justice services.

The workshop will take place on Friday, May 10 at the offices of the Ministry of Justice. Participants will share experiences with the incorporation of a gender perspective in the management of public justice services.

## ATTACHMENT D

### Interview: Public Ministry

Date: May 2, 2013

#### Participants:

- Rita Figueroa, Femicide Prosecutor, Representative of the Public Prosecutor for the Commission on Children and Adolescents Public Ministry, National Attorney General's Office;
- Leticia Silva, Gender Equality Prosecutor, Public Ministry, Attorney General's Office;
- Miluska Romero, Human Trafficking Prosecutor, Public Ministry, Attorney General's Office;
- Juan Huambachano Carbajal, Criminal Behavior Expert, Public Ministry, Attorney General's Office;
- Director of the Office of Cooperation, Public Ministry, Attorney General's Office;
- Josefina Coutiño, Chief of Party, Pro-Integridad Project;
- Verónica Moscoso, Component 3 Leader, Pro-Integridad Project;
- Ana Isabel Garita V, Consultant, Pro- Integridad Project;

Ms. Coutiño began the meeting by explaining the goals of the Project, its various components and expected results, and the importance of including a cross-cutting gender strategy in the Project in order to ensure that the Criminal Procedure Code reform guarantees access to justice for women.

#### 1. Gender perspective during indictment and criminal procedure

The prosecutors agree that a gender perspective does not currently exist in the prosecution policy of the Public Ministry, despite the fact that the National Plan to Combat Violence Against Women (2009-2015) recognizes the Government's obligation to comply with the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* and the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belem do Para Convention)*.

Prosecutor Leticia Silva considers that the extent of violence against women in Peru is extremely high, and could be compared to a "holocaust."

On the pan-Latin-American level, according to the Prosecutor, Peru is the country with the highest rate of sexual violence against women. She suggests the inclusion of the rate of violence against women as an indicator on the human development index.

Prosecutor Romero reports that the trafficking of women in Peru is largely a domestic criminal activity, not an international exchange. The majority of perpetrators of these crimes are themselves women, and the majority of victims are little girls.

Although the Public Ministry participates in the Commission on Gender, there is no specialized branch aimed crimes of violence against women.

#### 2. Domestic Policy Context

The current legal framework in Peru is:

- Protection from Family Violence Law (1993): remedy in civil court, requires a substantive change and is criticized because it lacks a gender perspective;
- Femicide is a criminal offence, article 7 of the Penal Code (2012);
- 2007 Human Trafficking Act, conforming to the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, a supplement to the United Nations Convention on Transnational Organized Crime (2000).

This law adopts a holistic approach, including prevention, prosecution and protection. A project is currently underway, designed to strengthen procedural protections against human trafficking. It provides information and proposals for the intelligent use of information, for example: criminal profiles, routes, modus operandi, exploitation and/or cooptation. The project is developing a protocol for the care of victims of trafficking, with special emphasis on children and adolescents and training for police and prosecutors.

In Peru Prosecutors file “the process” when the victim consents. CSOs are involved in the prosecution of offenders as well as the rescue and care of victims. The National Plan on Trafficking has been developed and there currently pending legislation aimed at modifying the criminal penalties for trafficking.

### **3. CIDH Jurisprudence – Belem do Pará Convention**

In Peru there is no gender-specific jurisprudence, therefore jurisprudence from the Conventions and the Inter-American Court of Human Rights has not been applied.

### **4. Institutional structure with a gender perspective**

At this point there isn't a budget available for the development of a prosecution policy with a gender perspective, and in general, there is resistance to change and the issue of equality. To overcome this difficulty, the principle of complementarity has been incorporated, and this has facilitated the inclusion of men in the process. Currently, no profiles of victims of offenders exist for domestic violence crimes, although 130,00 domestic violence crimes have been reported and 21 prosecutors are assigned specifically to domestic violence crimes.

### **5. Resources and training / awareness: institutional culture**

The Public Ministry is working with the Academy to develop a gender awareness program. One interesting example of an awareness program is the *Men Who Gave Up their Violence Program*, consisting of former offenders who changed their ways. The group conducts courses (attendees are approximately 80 percent male) where they explain the concept of gender and the meaning of inclusive language.

The Public Ministry is currently developing a sexual harassment policy (at present there is a labor shortage).

### **6. Coordination among prosecutors, National Network of Prosecutors**

There is no intra or inter-institutional synergy.

### **7. Statistics and substantive information**

In 2011, 1334 homicides were reported, of which 274 were women, and of these, 50 percent were killed by their partners.

Victims of femicide are often young women and housewives with children, and 34 percent of children of femicide victims end up institutionalized.

The attackers are their significant others, between 25 and 44 years of age. The modus operandi of these killings is becoming increasingly vicious and hateful. Women are usually killed in their homes, and the motive in most cases is jealousy occurring at the stage of a relationship breakdown.

**Recommendations:**

- a. Create an integrated research and prosecution center that addresses cases of violence against women (as has been done in Guatemala);
- b. Create specialized Prosecution Offices to deal with violence against women;
- c. Develop a protocol for the care of trafficking victims;
- d. Increase the visibility of gender perspectives within the institution and raise awareness among judicial officials and administrators;
- e. Update the 1993 legislation to give it a gender perspective and support the draft bill on the Comprehensive Protection of Women;
- f. Support the Public Ministry with technical assistance in the development and revision of specialized material and protocols that incorporate a gender perspective.

## **ATTACHMENT E**

### Interview **Flora Tristan Women’s Center**

Date: May 2, 2013

#### **Participants:**

- Ivonne Macassi León, Human Rights Program Coordinator, Centro Flora Tristán;
- Josefina Coutiño, Chief of Party, Pro- Integridad Project
- Verónica Moscoso, Component 3 Leader, Pro-Integridad Project
- Mónica Underwood, Project Officer, Pro-Integridad Project
- Ana Isabel Garita V., Consultant, Pro- Integridad Project

#### **1. Context and Organizational Goals**

Flora Tristan Women’s Center is an organization designed to protect the human rights of women and has been in operation for 34 years. The organization provides counseling and care services for victims in conjunction with the Manuela Ramos Movement.

The organization works in the Lima Police Station, giving direct advice to victims, and also offers a training program to the Police.

The organization also supports indigenous women in the central jungle of the Junin region where they have a collaborative agreement with the judiciary.

The organization is concerned about respect for traditional indigenous forms of justice. Although the Constitution recognizes the notion, very little has been done to coordinate the two systems. For example “ronderos” (a traditional indigenous tribunal) are still used, which raises concerns about traditional sanctions applied, such as the use of lashing with a whip as a punishment.

#### **2. Institutional culture regarding gender equality policies in the justice system and victimization of women within the system (National Plan to Combat Violence Against Women 2009-2015)**

The organization Flora Tristán began documenting the murders of women from press reports, the Public Ministry used this information as indicators for institutional statistics.

The categorization of femicide as a crime through the Criminal Procedure Code reform has been instrumental in raising awareness about murders of women.

While the new Code adequately provides for the use of protective measures, there is concern about the need to recognize the crime of sexual harassment.

#### **3. Treatment of indigenous women within the criminal justice system**

In indigenous communities in the Amazon, traditional justice is the most accessible, although discrimination against women persists.

It is important to take into account the application of Agreement 169 of the International Labor Organization (ILO) Convention. Generally, indigenous women file charges for acts of violence against them committed by non-indigenous men and are unable to find any solution to the

problems of violence against them within their communities. A current bill presented by the judiciary proposes a Law of Coordination between the two systems (the official system and the traditional system), and the Flora Tristan Women’s Center has offered a proposed set of guidelines for implementation.

**4. Civil society participation in the judicial process is taking place, in capacities such as: legal aid to victims, accusation (alternative dispute resolution), and witness and victim protection programs.**

The Flora Tristan Organization has participated in the judicial process, in family and criminal law, and most importantly in cases of rape in public places. They take on “high profile” cases in an effort to transform culture. In these cases the older criminal procedure code is still being used.

**5. Has the Organization been involved in procedural reform?  
The Organization considers this reform to be very important.**

The organization agrees that the new Criminal Procedure Code represents progress but notes that there are significant challenges, such as the subordination of the Police to the Public Ministry, which should be reconsidered because it is a change of operational routine that could affect women, for example, in cases of violence against women where the police often fail to investigate.

**6. Trends in the criminalization and deprivation of women’s liberties**

Statistically very few women are incarcerated and women tend to be involved in minor crimes, such as crimes against property, theft, and drug distribution.

**7. Recommendations**

- There is concern that the new code could be supplemented by traditional justice;
- The Organization wants to continue to pursue high profile cases;
- The Organization considers the victim protection provisions in the new Procedure Code offered through the Victim and Witness Care and Protection Programs to be important and recommends strengthening the provisions and granting house arrest to pregnant women;
- The Organization supports the new code and has the capacity to submit amicus briefs for future high profile cases;
- Training of judicial officers on gender mainstreaming and women’s right is crucial

## ATTACHMENT F

Interview:

### Ministry of Women and Vulnerable Populations (MMPV)

Date: May 3, 2013

#### Participants:

- Marcela Huiata Alegre, Deputy Minister of Women;
- Mónica Underwood, Project Officer, Pro-Integridad Project;
- Verónica Moscoso, Component 3 Leader, Pro-Integridad Project
- Ana Isabel Garita V, Consultant, Pro-Integridad Project

#### 1. Context and Goals of the Ministry (Current Minister: Ana Jara Velásquez)

Created on October 29, 1996, under the name Ministry of Promotion of Women and Human Development, in 2012 through legal reform the organization became the Ministry of Women and Vulnerable Populations (MMPV). “It is the governing body on national and regional policies with a gender focus, as well as those policies affecting vulnerable groups, that designs, establishes, promotes, implements, and supervises public policies in favor of women, girls, children, adolescents, elderly, disabled, internally displaced persons and migrants in order to ensure the exercise of their rights and a life free of violence and discrimination within the framework of a culture of peace.”

The mission of MMPV is to create a modern and integrated space in which it can provide policy leadership in a decentralized manner, contributing to the elimination of poverty, inequality, and exclusion among vulnerable groups, with a focus on human development and equality, in order to create equal opportunity between men and women.

The ministry has two vice ministries:

- The Vice Ministry for Vulnerable Populations, which has an extensive area of coverage (indigenous women’s issues are addressed by the Ministry of Culture)
- The Vice Ministry for Women, which is working on the protection of women, gender mainstreaming in public policy, and is responsible for a program that provides direct services to the population.

#### 2. Recent statistics on the situation of violence against women in Peru, types of violence against women, (offender profiles, common violence, and organized crime)

In Peru there is a serious problem of violence against women. Four out of ten women experience sexual violence. The MMPV is developing a strategy for dealing with violence against women in rural areas (using an example of this experience in Ayacucho). In this strategy the MMPV has highlighted the lack of visibility of women’s issues in the administration of justice. Some positive steps have been made towards improved services, for example it has been decided that one day a week only women’s cases will be heard. This will shorten case resolution timeframes by focusing the resources and officials on efficient dispute resolution.

The Public Defender has conducted studies on violence against women, determining that reported incidences have increased during the last ten years, which correlates with the creation and increased availability of care centers. The study determined that women primarily go to the

Police to file complaints. Peru has made progress in changing cultural patterns and language but not in behavior. Women have learned that they are not alone and are choosing to report crimes.

### **3. Excessive bureaucracy and corruption negatively impact women's access to justice**

Corruption is a complex problem. Excessive bureaucracy is often confused with corruption, and government inefficiency fosters an air of permissiveness toward the problem (See Pro-etica study and the Public Defender). The public perception is that judicial officers are very corrupt.

Within the justice system, women are victims of corruption. This intimidates them and discourages them from resorting to the judicial process. With cultural and economic barriers to justice already in place, even small-scale corruption is enough to prevent women from gaining access to justice.

In Peru, family violence is not a crime unless it results in serious injury.

### **4. The Ministry's role in the implementation of the National Plan to Combat Violence Against Women 2009-2015**

The Plan is a policy management tool that involves joint action of the State and society, in three areas: i) the implementation of activities to ensure the right of women to live free of violence, ii) access to high-quality public services, and iii) promotion of changes in socio-cultural patterns in order to encourage new forms of social relations between women and men based on full respect for human rights.

### **5. Civil society participation in the judicial process is taking place, in capacities such as: legal aid to victims, accusation (alternative dispute resolution), and witness and victim protection programs.**

The National Pro-Etica Network led a work component on corruption which resulted in the creation of the Network of Social Organizations working against corruption. The Network has analyzed and registered social organizations working on the issue of corruption and have incorporated youth groups and journalists.

The Ministry had the most success working with grassroots social organizations in regions outside of the city of Lima (because in the city organizations are in economic competition for survival). The Ministry works with certain social organizations, identifying those dedicated to public interest and justice services, such as: Manuela Ramos, DEMUS, Flora Tristan. These are organizations with a demonstrated capacity to carry out sustainable legal work, and are useful. It will be important maintain contact with the National Network for the Promotion of Women, which operates regionally and is experienced in monitoring health care services.

### **6. Treatment of indigenous women within the criminal justice system**

Indigenous women, Afro-Peruvians, and rural agriculturalists are the groups most likely to suffer from helplessness or low access to government service coverage. Because of this, a bifurcation of rights is necessary. Nowadays, while indigenous women and Afro-Peruvians take pride in their cultural differences, they also demand the right to transform traditions that oppress or exclude certain groups.

### **7. The new Criminal Procedure legislation is important for the advancement of women's rights in the administration of justice.**

There is a problem with the oral system: the issue of the credibility of a woman's word, which has always been delegitimized. On the other hand, the oral system is advantageous in that it is more flexible.

A Supreme Court guideline is in effect regarding the weight of a woman's word in cases of crimes of sexual violence.

The National Program Against Domestic and Sexual Violence provides several services: preventive services, care for victims, and legal assistance to women facing problems of impunity. Complaints and charges of corruption should be brought to the proper judicial authority when irregularities in the conduct of officials are present in case proceedings for crimes of violence against women.

It is important to understand that corruption affects women, families, and can be a strong barrier preventing women from demanding justice as well as an indicator of the lack of impact of the new legislation.

## 8. Recommendations

- MMPV considers it important to **expose corruption in specific cases where charges are brought by women**
- The MMPV supports the proposal to create a specialized prosecutor for crimes of violence against women, noting that it seems appropriate to have the assistance and support of countries such as Guatemala that are already utilizing this institutional framework from a centralized management model. **She will ask the Foreign Ministry to include this issue in the next technical cooperation agreement between Peru and Guatemala;**
- An audit of judgments incorporating a gender perspective should be conducted. It would be a good experience for justices to post decisions in a blog, in order to promote transparency in case resolution and allow monitoring in terms of fairness and equity,
- The Program could realize a joint effort with the PROSODE at the Catholic University which provides legal aid clinics for specific cases, with MMPV intervention in order to ensure sustainability.

## **ATTACHMENT G**

Interview:  
**Congresswoman: Luisa María Cuculiza**

Date: May 6, 2013

**Participants:**

- Luisa María Cuculiza, Congresswoman;
- Rosa Velarde Bolaños, Congresswoman's Legal Adviser;
- Josefina Coutiño, Chief of Party, Pro- Integridad Project
- Ana Isabel Garita V., Consultant, Pro- Integridad Project

The Project Chief of Party, Ms. Coutiño started the meeting by explaining to the Congresswoman and her advisers the goals of the Project, and its three components and expected results, emphasizing the importance of including a cross-cutting gender strategy into the Project in order to ensure that the Criminal Procedure Code reform guarantees access to justice for women.

Congresswoman Cuculiza indicated that in Peru justice is very slow and delayed justice is not justice. She referred to Peruvian justice as "death row". She noted that female judges are the only ones that actually give summons to rapists.

Most women victims are poor and cannot afford lawyers, however the rapists perpetrators have lawyers paid by the state (public defense), as well as free legal clinics.

The Women's Emergency Centers (CEM), which provide specialized and free care and prevention services for victims of family and sexual violence, and function with the support of local governments, are insufficient, although they are a promising initiative.

In addition, judges generally sympathize with the attackers, but this has not stopped increasing amounts of women from reporting crimes against them. According to the Congresswoman only 1 percent of criminal cases on violence against women are resolved. Judges, prosecutors, and police, with more expertise in the subject will be necessary to solve this problem.

## **ATTACHMENT H**

### Interview: **Public Defender**

Date: May 6, 2013

#### **Participants:**

- Dr. Imelda Tumialán, Team Leader of Penal and Penitentiary Affairs, Office of the Public Defender
- Josefina Coutiño, Chief of Party, Pro- Integridad Project
- Ana Isabel Garita V., Consultant, Pro- Integridad Project

The Public Defender is an independent constitutional body created by constitutional amendment in 1993. Its mission is to protect the constitutional and fundamental rights of the individual and the community, monitor the performance of the duties in government administration, and provide public services to the population.

The Public Defender seeks solutions to specific problems before the accused are charged. Consequently, the Public Defender does not dictate sentences, detention orders, or fines. Its power lies in persuasion, in behavior modification proposals formulated in recommendations, in the development of preventative strategies, in mediation in order to find solutions, and as well as its public reporting capacity invoked in extreme cases.

#### **1. The Public Defender's work in relation to violence against women**

The Public Defender has developed a series of reports on the situation of women in Peru and the progress of fundamental rights. The reports offer a detailed account of the situation of women in the country.

There is also a Women's Public Defender, responsible for affairs related to the dialogue with the authorities of the State and civil society.

Reported instances of femicide and violence have been on the rise recently, but the cases are being resolved very slowly. A pilot study should be conducted in order to find out how the system is working. As this point, no gender perspective is present.

This work should be done at home and in schools.

#### **2. Domestic and international policy contexts. Importance of Draft bill on criminalization of crimes of violence against women: "Law against Violence towards Women and the Family."**

The Public Defender considers that legislative progress is being made, but notes that there are still specialized laws pending approval.

The Public Defender does not know the content of the draft bills currently under discussion.

#### **3. Civil society participation in the discussion and implementation of laws protecting women and/or criminal procedure legislation.**

Civil society can be of great assistance, however in Peru there are no strong organizations, with the experience and capacity to offer effective support to women victims of crime. These victims need both legal and psychological support.

There is an urgent need for victim support services, especially in crimes of trafficking for purposes of sexual exploitation.

Another problem is that judges are commonly "*machistas*" and this issue requires a lot of support. In 2012, the Public Defender published a study entitled: "*New Criminal Procedure Code: Approach to Victim Support Mechanisms..*"

It will be important to present a proposal for legal reform to the Congressional Committee on Justice and Human Rights, on the need to strengthen civil society involvement in victim support.

#### **4. Justice System Response. Case resolution rates for crimes of violence against women and impunity: access to justice, the right to truth, and reparations.**

Significant progress has been made with the Public Ministry's creation of the National Victim and Witness Assistance Program, which has involved a major change in the typical role assigned to the prosecutor. But the program is still in its implementation phase, and in need of improvements and expansion of its ability to fully and adequately address the needs of victims.

The Judicial Academy of Magistrates has decided to include a module on gender in their trainings.

The Ombudsman has given attention to the situation of the victims, as well as their care and protection.

#### **5. Justice system treatment of indigenous people and detainees**

Indigenous women suffer the same discrimination within the justice system. Indigenous women prefer to use their own system of justice: the "rondas campesinas."

#### **6. The new criminal procedure legislation is important for the advancement of women's rights in the administration of justice, for example regarding the coordination and effectiveness of justice system affairs: Public Prosecutor's Office and specialized Police Stations for women.**

The new code is important because of its capacity to increase the speed and agility of the criminal justice process. While the code is well drafted, it could be improved. The hardest part is that judicial officers have not adopted a human rights approach to the implementation of justice.

An assessment of the Commission on Women revealed that there has been progress in terms of infrastructure, and follow-up is needed. Police are in need of gender training because they often do not accept complaints from women.

The victim's status under the new code merits attention. Prosecutors lack this perspective, and often do not provide protective measures. Prosecutors need training on how to grant protection measures adequately, but no specialized studies currently exist shed light on effective techniques for protective measures.

Attention should be given to security measures and training for police and prosecutors, as there is concern that prosecutors do not know how to investigate.

Police and judges should be trained to incorporate international standards on human rights and women's rights into their practice. The Police Academy and the school for other police officials both need this training.

Perceptions of the rights of citizenship and women's perceptions of justice depend largely on how they are treated by the police during their first interaction.

## **ATTACHMENT I**

Interview:

### **Inter-Ethnic Association for the Development of the Peruvian Amazon (AIDSESEP)**

Date: May 8, 2013

#### **Participants:**

- Lidia Rengifo, AIDSESEP staff member.
- Mónica Underwood, Project Officer, Pro-Integridad Project.
- Ana Isabel Garita V., Consultant, Pro- Integridad Project

Ms. Underwood explained the goals of the Project, its various components and expected results, and the importance of including a gender perspective in the Project, as well as support to Civil Society Organizations, especially those supporting women or indigenous communities, in order to increase awareness of the new procedural legislation.

Ms. Rengifo agreed that some women are aware of the new code, but thought that further awareness is needed about the levels of violence.

In the Amazon, there are 64 indigenous communities and 9 regional organizations. Violence against women there is different; both the violent behaviors and the institutional responses. Some indigenous communities have serious problems with violence caused.

Trainings have been offered to indigenous women, and women leaders provide training on violence that is usually kept private.

As for procedural changes, indigenous peoples fear that these changes cut against their rights, because judicial authorities are generally unaware of indigenous cultural attributes and procedures. In most cases judges are unaware of Convention 169 of the International Labor Organization, which has been ratified by Peru. In general, judges are distanced from indigenous localities. Judges should be trained on indigenous culture and law. The "Rules of Good Living" are the internal living standards of each community and therein prohibited conduct and punishments are established. Due to lack of knowledge of indigenous law among judges, many offenders receive double punishments.

There is an important example that occurred with the support of the Colombians to train judges. Many indigenous individuals were incarcerated on charges related to land issues, although the disputes had already been resolved. Incarceration should be minimized due to its high social cost and because it generally fails to achieve its rehabilitative purpose.

Organizations have defended indigenous people in the case of allegations. Analysis is needed on the violations that occur against indigenous women to determine differences in treatment by the courts between the indigenous and non-indigenous who are accused of the violations.

## ATTACHMENT J

Interview:  
**Vice President of the Commission on Women and Families**

Date: May 8, 2013

### Participants:

- Vanessa Sierra, Advisor to the Congresswoman
- (Congresswoman Gladys Condori did not attend the meeting because she was occupied with other duties)
- Josefina Coutiño, Chief of Party, Pro- Integridad Project
- Mónica Underwood, Project Officer, Pro-Integridad Project
- Ana Isabel Garita V., Consultant, Pro- Integridad Project

Ms. Coutiño started the meeting by explaining the goals of the Project, its three components and expected results, emphasizing the importance of including a gender strategy in the Project work plan in order to ensure that the Criminal Procedure Code reform guarantees access to justice for women.

### 1. The Status of Women in Peru

Women in Peru have organized themselves into unions, and now these unions want to register themselves officially in order to gain access to equal rights, for example, parity in compensation. A law has been proposed that would create a unified civil registry for women, which would allow them to gain access to these rights.

Membership in women's unions is growing at the national level, and the congresswoman has pledged to support them.

The congresswoman is also tackling the issue of human trafficking. They are organizing a media event about trafficking in order to raise awareness among susceptible youth, encouraging them not to sell themselves. The Congresswoman previously organized a raid that rescued two girls and is now organizing another operation in Lima, in coordination with the Public Ministry, Police, and Coronel Merino (ph: 980122239 is participating through DIVINTRAP<sup>6</sup>). Women who are involved in trafficking often have very low self-esteem, which makes it even more difficult for them to obtain access to justice, and it will be necessary to work in various regions to alleviate this problem. The Congresswoman also introduced a bill supported by DIVINTRAP to impose a penalty on the user of trafficking affairs.

The Government has not abandoned the Amazon region, in reality the problem is the people there are not working. They are given land and water but they do not cultivate it. In the mountainous and coastal regions, people are working more

### 2. Domestic Policy Context

- Protection from Family Violence Law (1993): civil court, requires a substantive change.
- Approval of femicide as a criminal offence, article 7 of the Penal Code (2012);

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<sup>6</sup> "División de Investigación de Delitos Contra la Trata de Personas" a Division for the Investigation of Crimes Against Human Trafficking. (resides within the national police of Peru)

- 2007 Human Trafficking Act, conforming to trafficking protocol, holistic focus on prevention, prosecution, and protection, designating INAVIV as the entity in charge of shelter for rescued girls

### **3. Creating an institution specialized in gender perspectives within the justice system .**

The attendees considered the importance of creating a specialized institution within the justice system with the jurisdiction to investigate, pursue, prosecute, and punish those responsible for crimes of violence against women.

The attendees also noted the importance of gaining access to experiences with specialized institutions that have been implemented in Guatemala, Nicaragua, Costa Rica, and elsewhere, in different forms. Guatemala has created a centralized management model, within their specialized justice institution that is focused on gender issues, which contributes significantly to ensuring access to justice for women.

Ms. Sierra promised to consult congresswoman Condori about this possibility in the future, emphasizing the relevance to the support of the justice system. She thinks it is possible that the Congresswoman will sponsor the drafting of a new law designed to create the necessary institutions.

## **ATTACHMENT K**

Interview:  
**Manuela Ramos Movement**

Date: May 8, 2013

### **Participants:**

- Lizbeth Guillen, Manager: Participation and Public Policy Program;
- Verónica Moscoso, Component 3 Leader, Pro-Integridad Project;
- Ana Isabel Garita V., Consultant, Pro-Integridad Project.

### **1. Context and Organizational Objectives**

The Manuela Ramos Movement has a 35-year history of supporting women who are victims of violence.

They have experience monitoring legislative reform processes, typical cases of violence against women, and cases where a crime is reported but prosecutors do not pursue charges. The director is Maria Elena Reyes Melendez.

### **2. National Advances in Women’s Rights Advocacy**

While significant legal reforms and institutional advancements have occurred in Peru, such progress depends on the political will of the authorities in power. For example, the administration of President San Martín held a Judicial Plenary Session that established mandatory guidelines for all courts regarding the treatment of female victims of gender-based violence. This is a very important document from 2012).

Another advance came with a 2009 judicial mandate emphasizing the importance of institutional and jurisdictional coordination between bodies enforcing statutory and common law. This mandate was carried out through coordination with justices of the peace, which regulates legal spaces where both systems of law coexist.

### **3. Institutional Culture**

Peru’s model for providing care to women is embodied in the Women’s Emergency Centers, which are present in 70 percent of the country.

The purpose of the model is to offer one place where women can access all of the institutions involved providing care to women. These Centers are staffed with lawyers and psychologists. At the Centers women can report cases of violence and set the process in motion.

One deficiency of this model for women’s care is that the Centers are designed for implementation in an urban setting, and are thus inadequately adapted to the needs of rural and indigenous populations. For example, the schedules should be flexible in order to avoid long and costly travel.

Right now violence against women is an extremely pressing issue as male behavior is increasingly cruel, direct, and brutal, in what seems like an attempt to consolidate power. Men have lost influence in traditionally male spaces and have failed to reassess their new functions and roles in society. Miguel Ramos, Director General of Family Affairs, MMPV, has produced interesting work on the subject of masculinity.

#### **4. Women’s Access to Justice: The Importance of the New Criminal Procedure Code**

In a considerable number of cases where battered women have turned to the justice system in order to redress their grievances, judges have not offered protective measures, and even in cases where protective measure have been offered, they tend to be ineffective. Even worse, shelters for battered women do not exist, leaving women even more vulnerable after abuse occurs.

There is also no communication or coordination between the Victim and Witness Care and Protection Program and other programs offering protection and shelter to victims of crime.

The Manuela Ramos Movement has worked in the field of forensic medicine, particularly on the issue of psychological violence, and has developed a guide: “*Guide for Assessing Psychological Damages in Adult Victims of Domestic Violence, Sexual Abuse, Torture, and Other Forms of Intentional Violence.*”

What remains to be done is to implement the Guide, which will occur once the forensic experts complete their training cycle and receive their certifications.

The Manuela Ramos Movement is working on a study of femicide sentences in the judicial district of the North Lima Court, which will be completed soon. The Movement has identified the improved training for judges on the issue of women’s rights as an important goal. Reliable information is not available about the extent or prevalence of impunity for crimes against women. This would require a detailed breakdown of data, which will only be possible with the presence of a judiciary and Prosecutor’s Office truly dedicated to the investigation of crimes against women.

The Movement considers it important to gain access to other Latin American experiences in the promotion of gender justice in order to understand and evaluate its feasibility in Peru.

#### **5. Recommendations**

- a. Support the training of forensic experts in the “Guide for Assessing Psychological Damages...”, 100 have already been trained in coordination with San Marcos University in Lima and other regions;
- b. Take into account the situation of the Women’s Emergency Centers as a demonstration of the importance of centralizing services designed exclusively for the benefit of women. These centers are evidence of the potential that specialized institutions can offer with regard to gender-based crimes.
- c. The Manuela Ramos movement has experience and potential in the area of women’s rights trainings;
- d. The Movement would like to participate in the process of developing and promoting legislation aimed at these goals. For example, the new law on violence against women was developed in conjunction with CSOs, and then the bill was introduced by MMPV;
- e. Meet with Congresswoman Rosa Mavila, President of the Board of Women Parliamentarians, in order to discuss legal reforms, and with Supreme Court Justice Dr. Janet Tello, who has been involved with these issues.

## VII. WORKS CITED

Centro de Derechos Humanos. Informe: “Transparencia, lucha contra la corrupción y sistema interamericano de Derechos humanos”. Facultad de Derecho Universidad de Chile.  
[2011]

Centro de Mujeres Flora Tristán. Informe: “Percepción sobre Justicia indígena y justicia estatal”, y la “Propuesta de lineamientos para una ley de coordinación entre las justicias indígenas y la justicia ordinaria”. Lima, Perú.  
[2011]

Código Procesal Penal Modificación del artículo 107 del Código Penal: “Artículo 107. Parricidio/Feminicidio”. Aprobada en el 2011. Lima, Perú.

Código Procesal Penal (Decreto Legislativo No. 957), Publicado en el Diario Oficial “El Peruano” el 29 de julio de 2004, Perú.

Comisión Interamericana de Derechos Humanos. Acceso a la justicia para mujeres víctimas de violencia en las Américas. OEA. Washington. DC.

Convención Americana sobre Derechos Humanos, Pacto de San José de Costa Rica, Conferencia Especializada Interamericana de Derechos Humanos, 18 de julio de 1978, Costa Rica.

Convención Interamericana para Prevenir, Sancionar y Erradicar la violencia contra la mujer, Convención de Belem do Pará, Comisión Interamericana de Mujeres, Brasil.  
[1994]

Convención sobre la Eliminación de Todas las Formas de Discriminación contra las mujeres (CEDAW), aprobada el 18 de diciembre de 1979 por la Asamblea General de Naciones Unidas.

Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional. Protocolo para prevenir, reprimir y sancionar la trata de personas, especialmente mujeres y niños, que complementa la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional. Naciones Unidas. Palermo, Italia.  
[2000]

Constitución Política del Perú. Congreso Constituyente Democrático.  
[1993]

Sentencia del 16 de noviembre de 2009, Caso González y Otras (“Campo Algodonero”) vs México. Corte Interamericana de Derechos Humanos.

Sentencia del 25 de noviembre de 2006, Caso del Penal Miguel Castro Castro vs Perú. Corte Interamericana de Derechos Humanos.

Defensoría del Pueblo del Perú. Informe: “La Defensoría Adjunta de los Derechos de la Mujer”.  
[2009]

Defensoría del Pueblo del Perú. Informe “Nuevo Código Procesal Penal: aproximación a los mecanismos de atención a la víctima”.  
[2009]

Defensoría del Pueblo del Perú. Informe: “Violencia Sexual en el Perú: un análisis de casos judiciales”. Lima, Perú.  
[2011]

Instituto de Medicina Legal (IML), Centro de Atención Psicosocial (CAPS) y Movimiento Manuela Ramos (MMR). Guía de Valoración del daño psíquico en víctimas adultas de violencia familiar, sexual, torturas y otras formas de violencia intencional. Lima, Perú.  
[2011]

ONU-MUJERES. El Progreso de las Mujeres en el mundo. En busca de la Justicia.  
[2011-2012]

Ley Orgánica del Ministerio Público, Constitución Política del Perú.  
[1981]

Ponce Chauca, Nataly. “La Reforma Procesal Penal en Perú. Avances y desafíos a partir de las experiencias en Huara y La Libertad”. Centro de Estudios de Justicia de las Américas (CEJA). Lima, Perú.  
[2009]

Proyecto Pro-Integridad de USAID/Perú. Plan de trabajo del primer año, Abril-Mayo 2013, Perú.