



# Successes and Challenges in Securing Reproductive Health and Rights in Peru

October 2003

Last May, Peru's Ministry of Health (MoH) approved regulations requiring women to register their pregnancies "from the moment of conception." Soon thereafter, the MoH circulated a draft health bill that would, among other things, have conferred legal rights on fertilized eggs from the moment of conception, expanded providers rights to conscientious objection without restriction, minimized women's health in the context of "family needs," and prohibited civil society opposition to government health policies.

At that time, CHANGE worked with leading women's organizations in Peru – including Flora Tristán Peruvian Women's Center, Movimiento Manuela Ramos, and DEMUS—to develop a rapid response mechanism to the misguided policies being proposed by the MoH. This coalition worked together to analyze the proposed health legislation, gauge efforts by donors and other institutional actors supporting or opposing this policy, and disseminate critiques of the proposed policies to members of Peru's National Congress and government ministries, donor agencies, the media, and a broad range of civil society organizations in Peru. In addition, we sent an international action alert to which many of you responded. These efforts generated widespread support from an array of stakeholders within Peru, including the Peruvian Health Forum, the Peruvian Physicians' Association, and the Medical Society for Assisted Reproduction. The Public Ombudsman, an independent government agency charged with defending citizens' rights in public programs and services, and a number of members of Congress in Peru concerned with rights and health complemented these advocacy efforts by making their critiques of the bill known to the general public. A number of donor institutions weighed in behind the scenes. And many of you responded to our request for international support by writing letters to the Ministry of Health. Together, these

responses ignited a wide-ranging public debate in Peru.

## Expanded Public Debate on Reproductive Rights

During the following weeks, for example, a number of media outlets and prominent columnists developed in-depth stories on the implications of the regulations and the draft health bill for women's health and rights, catalyzing public discussion of the role of the Minister of Health in attempts to replace public health and human rights principles with personal religious beliefs. As a result of these and related efforts, broader reproductive rights and health concerns in Peru gained a great deal of attention. For example, a major Sunday evening news magazine TV program visited rural health clinics where extremely low-income women clients were being required to pay for family planning services, despite the legal mandate that contraceptives be provided free of charge to this population. Their reporting unveiled just one of the obstacles that limit women's access to reproductive health services. In addition, on June 25<sup>th</sup>, one of Peru's most widely circulated daily newspapers, *La República*, printed an editorial that called for the Minister of Health to resign. In sum, the combined effects of country-level advocacy and media coverage along with international pressure helped bring to light the actions of the Minister of Health and the Administration more broadly, while also putting reproductive health and rights issues on the public agenda.

## Peru's Congressional Health Committee Responds

By the end of June, the draft health bill was clearly doomed. On June 26, the Congressional Health Committee rejected the draft bill, and instead summoned the Minister of Health, Dr. Fernando Carbone to testify on the actions of the MoH. Carbone sent Estuvo

Gustavo Vinatea, Coordinator of the National Health Council, in his place. In his presentation before the Congressional Health Committee, Vinatea fully recognized the deficiencies in the draft legislation, and asserted that the Ministry no longer backed the bill, agreeing to change it. That same day, the Congressional Health Committee shelved three other bills intended to restrict women's rights, including one that would have required all women of reproductive age to consume folic acid, and, another that would have allowed health providers to avoid delivering essential reproductive health services via conscientious objection, even when no other services were accessible to a given individual or community.

### **Changes in the Cabinet**

Two days after this, President Toledo swore in new cabinet members. Traditionally, the President makes such changes on Independence Day - July 28th; yet the strength of public pressure in opposition to these policies forced him to act earlier. Although some cabinet members remain in place, those in charge of essential policies affecting women's rights were changed, including the cabinet chief, Beatriz Merino, responsible for developing overarching policy guidelines and coordinating their execution, as well as the Ministries of Health, Women and Education.

The President then appointed Dr. Alvaro Vidal, the Dean of the Peruvian Physicians' Association, as Minister of Health. As the spokesperson for Peru's medical community, Dr. Vidal has been increasingly vocal in his criticisms of the government's health policies in general and of its efforts to undermine reproductive health in particular. In his first public statements as Minister of Health, Dr. Vidal said that his administration would reverse Dr. Carbone's family planning policies, by promoting free and informed choices regarding contraceptive use and by making emergency contraception available.

The new cabinet chief, Beatriz Merino, a moderate conservative, represents a clear change in policy orientation from her predecessor, Luis Solari, a proponent of the extreme right. Dr. Merino has had a great deal of contact with women's organizations since serving in Congress in the nineties, and she is the first woman to hold the position of cabinet chief. The new Minister of Women and Social Development, Anel Townsend, has been a congresswoman since 1995. Like

Merino, Townsend also has good connections with local women's groups and has become increasingly more aware and supportive of reproductive rights issues. As a member of the Congressional Committee on Women during the past year, she helped formulate the Equal Opportunities bill.

The appointment of public officials who endorse reproductive rights is an important achievement for women's health and rights advocates in Peru. For example, at least two media sources immediately credited "feminists and the women's movement with having won the battle" to reverse the government's onerous policies. Representatives from the major medical associations, women's rights groups, and reproductive health organizations sent letters and made public statements to express their support for Dr. Vidal's policy position on reproductive health and rights.

Equally significant, the cabinet changes were accompanied by political backing from the highest levels of Peru's government. On July 18, when the new cabinet chief presented changes in the administration's policies, Dr. Merino included support for family planning services and for informed choice. And, in his annual state of the union address on July 28, President Toledo expressed his full support for family planning policies that follow the guidelines developed by the World Health Organization.

### **Remaining Challenges**

Despite these encouraging political moves, several challenges remain. First, the staff of the Ministry of Health hired under Dr. Carbone remains in place, including among them the authors of the recently rejected legislation that would have undercut women's rights. Many of these staff were selected by Carbone for their religious convictions and affiliations rather than their expertise. Bringing reproductive health and other services up to speed will require replacing them with personnel who are both technically equipped and experienced in public health. This has yet to happen.

Second, health policies approved under Dr. Carbone also remain in place, many of which violate women's rights, and lack both scientific validity and technical plausibility. One example is the regulation requiring women to register their pregnancies with the MoH from the moment of conception, a regulation that has yet to be enforced. These internal regulations must be revised to

ensure they are consistent with international scientific and medical consensus and with rights and health objectives. Moreover, sustained and proactive steps are needed to ensure that health policies and programs are reformulated based on widespread participation by civil society and take into account citizen's concerns and views.

### **Backlash from the Far Right on EC and Condoms**

Finally, the far right has not given up in its effort to restrict access to services. Indeed, the greatest challenge remaining in Peru is political opposition from the far right, which has already re-positioned itself to mount challenges to reproductive rights from within the Peruvian Congress. The former cabinet chief, Dr. Luis Solari is now a member of the Congressional Health Committee for the legislative period 2003-2004, and has worked to ensure the appointment as president of that committee of another member of the far right, Congressman Hector Chávez Chuchón. In August, Dr. Chávez Chuchón presented a petition signed by 68 Congresspersons calling for the Ministry of Health to restrict access to emergency contraception (EC), on the grounds—unsupported by science—that it is an abortifacient.

The Monitoring Group on Sexual and Reproductive Health in Peru, a coalition of organizations and individuals including CHANGE, has responded to this and other challenges by compiling current scientific evidence on the mode of action of EC and disseminating these articles and papers to members of Congress, leaders of the executive branch, representatives of the donor community, and other key decision-makers. The Monitoring Group also organized a press conference in which all the major medical associations in Peru reiterated their support for EC. These actions form part of an on-going initiative by CHANGE and colleagues in Peru to develop a public response to misinformation about EC and dispute misleading statements by members of the far right, including through the media and numerous public forums.

CHANGE has also actively monitored and sought to influence the actions of USAID, the largest international donor to reproductive health programs in Peru, which has backtracked on its commitment to EC in Peru and elsewhere. USAID's unwillingness to help expand access to EC in Peru is a result of political pressure from the far right on one hand, and lack of support on the other. In an effort to advance U.S. foreign policy

objectives in Peru and the region, USAID-Peru has sought to appease Luis Solari and other members of the far right, who continue to wield significant power within the Toledo's Administration. At the same time, support for EC at USAID's headquarters in Washington has been tepid at best, largely due to the political force of the Bush Administration and ultra-conservative members of the U.S. Congress to limit women's access to reproductive health services worldwide. Finally, Congressman Chris Smith (R-NJ), a member of the far right in the United States who has made it a personal mission to undermine women's access to essential reproductive health services, continues to work closely with Luis Solari and others in Peru, and by extension, to exert undue influence on the actions of USAID.

In Peru, the new Minister of Health recently succumbed to these counter pressures from the right wing by appointing a High Level Commission to evaluate EC and its mode of action, thereby delaying the introduction of the method in public health clinics. The Commission, which includes the major medical associations, the Public Ombudsman, and the Peruvian Episcopal Conference (Catholic Church officials), is the third such government review of EC in Peru in the past three years. In 2001, then-Minister of Health, Dr. Eduardo Pretell, approved oral emergency contraception after a thorough review of current scientific evidence and international medical guidelines. However, during his post as Minister of Health, Fernando Carbone released a report concluding that EC is an abortifacient. Since then, the Public Ombudsman has undertaken its own study and intends to release the results shortly. It is expected that the Ombudsman will uphold clients' rights to access to EC in public health clinics and recommend Peru's government fulfill this obligation. It is important to note that a dedicated EC product is on the market in the private sector but at a cost far beyond the means for most poor women in Peru. Therefore, it is imperative that Peru's MoH and foreign donors support making EC available to poor women through the public sector.

EC is not the only method under attack by the far right. In September, the public learned that the MoH was considering making condoms available to students in high schools. Although health officials had not yet finalized the policy, ultraconservative officials of the Catholic Church reacted immediately, sparking an intense debate. The Church and its supporters have used this opportunity to spread misinformation and biased judgments on the efficacy of condoms, and to further

their opposition to comprehensive approaches to adolescent sexuality, and the rights of all people to sexual health information and prevention technologies. For example, in parallel with recent pronouncements by the Vatican, the president of the Peruvian Catholic Church's Family Commission explained erroneously in an interview that the AIDS virus was smaller than the pores in condoms, and therefore condoms offer no protection against HIV. A range of organizations signed and published a communiqué sponsored by the Peru AIDS Network to counter this misinformation and at the same time call upon the Toledo government and Minister of Health to develop clear policies for the prevention of HIV/AIDS and unwanted pregnancy.

Nearly four months have passed since President Toledo appointed new cabinet members favorable to reproductive rights and announced a change in direction for Peru's reproductive health policies. However, these changes have yet to result in concrete actions leading to increased access to family planning and other forms of reproductive health care. The government of Peru and international donors operating in the country, such as USAID, urgently need to take decisive steps to respond to critical sexual and reproductive health needs such as unwanted pregnancy, unsafe abortion and childbirth, and the spread of sexually transmitted infections, including HIV. Otherwise, the far right will continue to hijack the very policies and programs needed to advance women's health and rights. We continue to work on these issues, and will provide updates as needed.

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