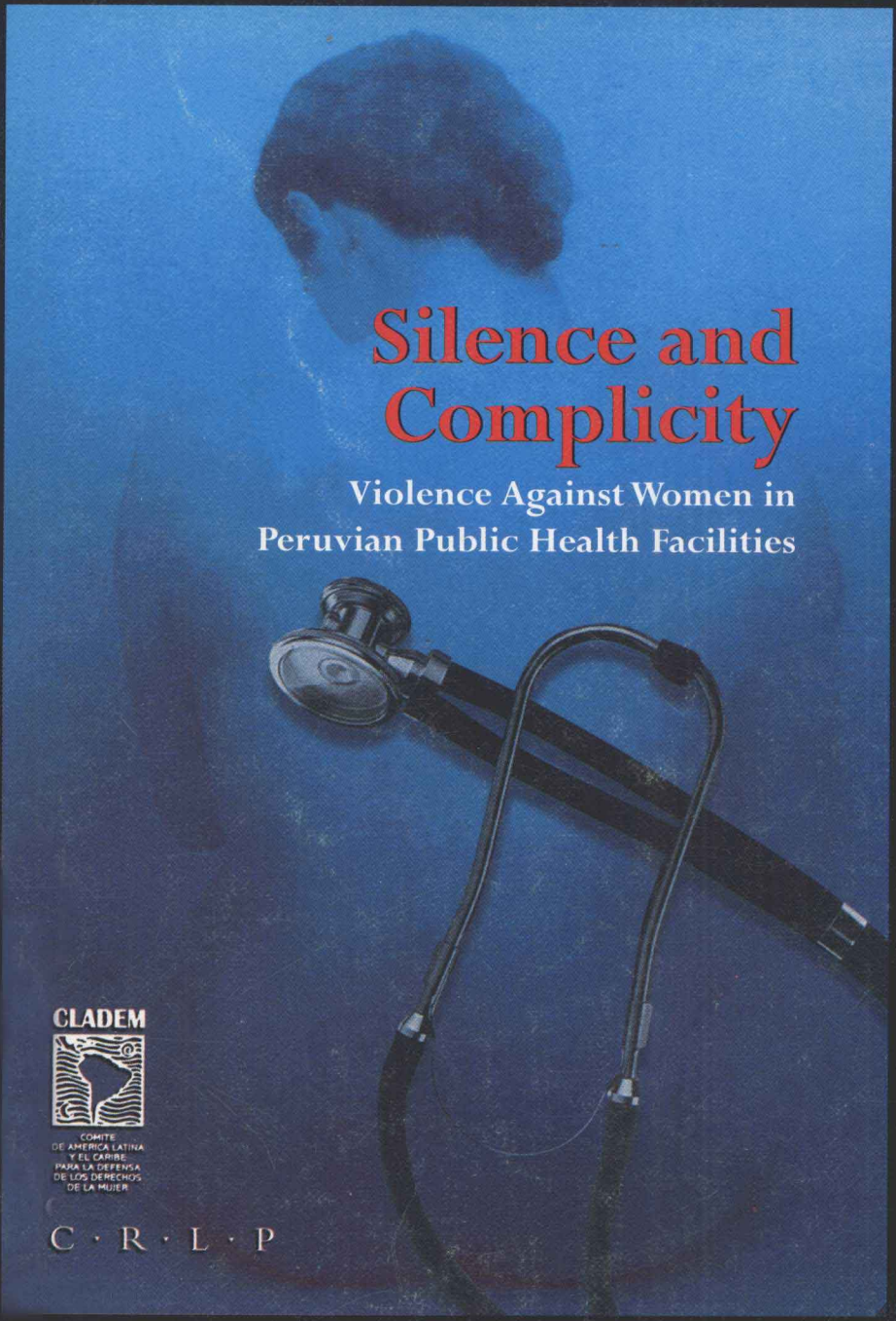

Silence and Complicity

Violence Against Women in Peruvian Public Health Facilities

CLADEM

COMITE DE AMERICA LATINA Y EL CARIBE PARA LA DEFENSA DE LOS DERECHOS DE LA MUJER

C · R · L · P

SILENCE AND COMPLICITY

VIOLENCE AGAINST WOMEN IN PERUVIAN PUBLIC HEALTH FACILITIES

LATIN AMERICAN AND CARIBBEAN COMMITTEE FOR THE DEFENSE OF WOMEN'S RIGHTS (CLADEM)

THE CENTER FOR REPRODUCTIVE LAW AND POLICY (CRLP)

The Center for Reproductive Law and Policy (CRLP)
120 Wall Street
New York, NY 10005
USA
http://www.crlp.org

Latin American and Caribbean Committee for the
Defense of Women's Rights (CLADEM)
Jr. Estados Unidos
Oficina #702, Jesus Maria
Lima 11 Peru
email:postmast@cladem.org.pe

Cover design by Gonzalo Nieto
Layout and production by Deborah Dudley
Translation from Spanish by Steven Dudley

ISBN 1-890671-17-7

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ABBREVIATIONS

FWCW	Fourth World Conference on Women, 1995
CEDAW	Committee on the Elimination of all Forms of Discrimination Against Women
D&C	Dilation and Curettage
ICPD	International Conference on Population and Development, 1994
IUD	Intrauterine Device
MOH	Ministry of Health
PISS	Peruvian Institute of Social Security
PRHFP	Program on Reproductive Health and Family Planning 1996-2000
STI	Sexually Transmitted Infection
UDHR	Universal Declaration of Human Rights
WCHR	World Conference on Human Rights, 1993
WHO	World Health Organization
WSSD	World Summit on Social Development, 1995

ACKNOWLEDGMENTS

This report is the product of a collaborative effort between the Center for Reproductive Law and Policy (CRLP) and the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM). The Center for Peruvian Women "Flora Tristán" participated in the research and helped carry out the investigation.

The investigation was led by Giulia Tamayo, the former Executive Director of the Center for Peruvian Women "Flora Tristán," an organization dedicated to promoting women's rights and monitoring the Peruvian government's performance in matters of gender violence, health care, and sexual and reproductive rights.

In writing and editing this report, the authors relied on the assistance and advice of Gaby Oré Aguilar and Anika Rahman of CRLP, whose contributions were invaluable throughout the process and in the final product. Steven Dudley translated the report into English, and Laura Katzive, Kathy Hall Martinez, and Lisa Hibler edited the English version.

Ivonne Macasi, Excutive Director of the Center "Flora Tristán," acted as an associate investigator, interviewing authorities and identifying and documenting cases in Arequipa, Puno, and Huancayo. Raquel Cuentas, a team assistant, assisted in researching documentary sources, conducting follow-up interviews with health care professionals and health care clients, and organizing and processing research materials. Julia Vicuña collaborated in the identification of cases in Lima. Deborah Dudley of CRLP was responsible for design and layout of the report in its Spanish and English versions; Cynthia Eyakuze of CRLP coordinated the production process. Carlos

Cárdenas of TV Cultura, produced audiovisuals and participated in the documentation of cases. José María García of Roots and Wings Cooperative for work about Gender, Development, and Democracy helped finalize the report and revise the demographic data.

This report would not have been possible without the generous cooperation of numerous women's organizations, including the Women's Association of Huancabamba-AMHBA (Piura) and the Women's Federation of Peasant Farmers of Anta (Cusco), and the help of many individuals who are actively working to promote and protect women's rights in Peru. In particular, we would like to thank Ana Cosme of the Organization for Local Development (Huancayo, Junín), Josefa Ramírez of the Organization in Support of the Rural Women's Independence Movement (Huancabamba, Piura), Luz Estrada of the Repro-Salud Project, Manuela Ramos Movement (Puno), and Rina Zanabria of ILDER (Arequipa).

We acknowledge Rocío Villanueva, Special Defender of Women's Rights in the Peruvian government's Ombudsman's Office, for her concern regarding the problem of violence against women in the public health care sector. We also recognize all those authorities and health care professionals who took the time to be interviewed, and we express our gratitude to those in the health sector who provided us with information with the hope of contributing to the eradication of all forms of violence and discrimination against women.

Our profound thanks to Jesús Gonzales Amuchástegui, Ernesto de la Jara Basombrío, and Celina Romany for their comments on this report. Our deepest gratitude and respect to all those women whose bravery in testifying enabled us to write this report.

Lima-New York, July 1998

I. EXECUTIVE SUMMARY

This report documents violations of the human rights of women who rely on public health facilities in Peru. The conclusions and recommendations are drawn from an analysis of cases, testimonies, and group interviews that reveal physical, psychological, and sexual violence as well as other practices that violate the rights to information about health care and to make free and informed decisions regarding reproductive health and family planning.

The findings of the investigation reveal the Peruvian government's lack of commitment to promoting and protecting women's human rights. The Peruvian government has not taken steps to implement the international standards adopted by the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994), the World Summit on Social Development (Copenhagen, 1995), and the Fourth World Conference on Women (Beijing, 1995).

This report asserts that under international law governing state responsibility, the government of Peru has three categories of obligations pertaining to human rights: the duty to respect, the duty to protect, and the duty to fulfill. Following this framework, this report demonstrates that the Peruvian government is responsible for the acts of violence and other abuses committed by providers of public health services, for the absence of effective mechanisms to prevent and sanction these acts, and for the systematic cover-up of violations and the failure to punish those responsible through existing administrative and judicial channels. The report also demonstrates that discrimination against the victims, particularly against those with the least economic and social power, underlies the abuses. This

discrimination undermines women's ability to exercise their right to health and their sexual and reproductive rights.

Violence and Discrimination

The Peruvian government declares in various policy documents that improving women's reproductive health is a priority for the health care sector. Such statements are contradicted, however, by the cases reported herein in which state providers commit violent and discriminatory acts against women. This report presents evidence of physical and psychological violence; exposure to grave risks to life, body, and health; and coercive, humiliating, and discriminatory treatment against those who use public reproductive health and family planning services.

According to the evidence collected, verbal humiliation and other forms of disrespectful treatment of public health care clients by their care providers are common practices. Because such abuses occur frequently, many women perceive them as part of normal procedure. Many feel that they must submit to these abuses because their low economic status deprives them of the opportunity to obtain humane treatment and quality services.

As documented by the cases in this report, sexual abuse, physical aggression, submission to unnecessary pain during procedures, and the denial of information and appropriate medical attention are practices thatædespite their gravityægo unnoticed and do not provoke institutional condemnation, punishment, or implementation of preventive measures. In general, they are tolerated practices that remain sanctioned.

The fact-finding undertaken for this report indicates incidences of violence and discrimination occur predominantly against women who belong to the segments of the population at greatest risk in matters of sexual and reproductive health: young women, women living in poverty, and women from rural areas or marginalized urban areas. It is precisely these women who account for the extremely high rate of maternal mortality in Peru.

According to the testimonies gathered for this report, health care providers are judgmental, punitive, and controlling of the sexual and repro-

ductive decisions of their female clients. These attitudes are reinforced by the institutional culture of the public health care sector, which assigns women clients to the lowest tier of available services and which treats them paternalistically, creating a culture of those who know all and those who know nothing. Finally, the prevailing culture condones even more extreme acts of discrimination, including coercion, deceit, misinformation, and violence.

The evidence collected in this report indicates that public maternal health care services in Peru charge fees for hospital care during childbirth. This practice contradicts national law,[1] and violates the Peruvian government's obligations under the Convention on the Elimination of all Forms of Discrimination against Women (Women's Convention).[2] This fact-finding indicates that the basis upon which these fees are set in health care facilities is unknown to both the women who use these facilities and to the general public. The fees serve to deny many poor women access to public health care services. Moreover, the arbitrary criteria by which the staff determines who can and who cannot pay, as well as the amount to be paid, have resulted in abusive conduct on the part of health personnel.

Various objective and subjective conditions contribute to women clients' powerlessness and thus their inability to pursue legal remedies. In many cases, these conditions also result in women's complacency in the face of violations of their human rights.

In this context, the government's intensified efforts to promote family planning, in the absence of parallel efforts to modify the conduct of the public health care providers and improve the position of the women who use health care services, have opened the door to new types of coercion and discrimination against women.

When health care clients experience violence and discrimination in the hands of public health care providers, victims are not the only ones who are alienated. The community's perception of the public health care sector is also negatively affected. Many women turn to traditional medicine or resort to self-treatment to alleviate their ailments and those of their family. This outcome runs counter to government efforts to reduce maternal mortality.[3]

Legal Deficiencies

An analysis of national laws and women's testimonies illustrates the lack of protection of the rights of those who use public reproductive health care services in Peru. The recently enacted General Law on Health has codified some of the basic rights of patients. However, the lack of specific mechanisms by which to make complaints and report violations of these rights impedes their effective implementation.

Among the shortcomings of the legislation is its failure to recognize the right to make free and informed decisions regarding health care. In Peru, as indicated by the evidence contained in this report, reproductive health care professionals often exercise authority for deciding which procedures women should undergo. Another disturbing problem is the Peruvian government's resistance to revising a number of discriminatory laws related to sexuality and reproductive decision-making, such as those that punish women who seek care in health facilities for complications resulting from induced abortions.[4]

Peru's General Law on Health requires doctors and health care professionals to assist in the prosecution of women who report to health care facilities for post-abortion complications. This requirement contradicts international recommendations and undermines national efforts to reduce maternal mortality, as set forth in the Program on Reproductive Health and Family Planning 1996-2000 (PRHFP 1996-2000). It also violates fundamental human rights such as the right to life, the right to health, and the right to medical confidentiality.[5] At the same time, legal provisions that would better protect clients of the public health care system are not promulgated.[6]

The research conducted herein indicates that the women surveyed did not know their basic rights as public health care clients and, despite the injustices they have experienced, do not feel empowered to file complaints. In various women's testimonies, it is clear that even when they did perceive treatment by some health care professionals to be discriminatory and inhumane, these women did not view the government as legally responsible for failing to prevent, monitor, correct, and impose punishments for those acts.

Silence and Complicity

In Peru, a complex web of silence, fear, and complicity serves to veil the violations of women's human rights occurring in public health facilities. In interviews, officials in the Peruvian executive and judicial branches treated these serious lapses in government accountability as isolated incidents or problems that had already been corrected.

Heightening the effects of the legal deficiencies described above is discrimination in the judicial system, which favors those with greater political, social, and economic power. The fear of victims that they may be subject to additional hostility, which could be detrimental to their health and to that of their family, prevents them from bringing abuses to light and pursuing legal remedies. This investigation has confirmed that this fear exists with greatest intensity and persistence among health care clients from rural areas and the urban periphery, where health care personnel tend to have influence with local government officials.

In the few cases in which health care clients have filed complaints against providers, there is evidence that staff and officials of the health care sector have engaged in cover-up efforts. The cases documented during the course of this investigation reflect an institutional culture that encourages and reinforces this type of behavior. This culture, together with health care workers' lack of employment security, often causes them to remain silent in the face of violations of women's rights. In some of the cases discussed herein, these workers agree or are obligated to contribute money to pay for the defense of a superior or coworker accused of a crime involving a client, even when the accused is guilty and the worker does not wish to contribute.

On the basis of the evidence collected, this report reflects the institutional tolerance for and impunity of those who abuse clients expose the entire population of Peru to the risk of similar abuse.

II. RECOMMENDATIONS

1. To the Peruvian Government

General Recommendations

- Seriously commit to eradicating discrimination and violence against women who use public health care services; guarantee institutional settings in which these women are treated as people with rights.
- Prioritize the restoration of public confidence in public health care services; guarantee respect for human rights and ensure the quality of services.
- Ensure respect for the rule of law, transparency in government decision-making, and citizen participation in the management of public health care programs and services.
- Commit to an investment in health that is sufficient to ensure quality services that comply with human rights requirements. Provide information to the monitoring bodies of treaties signed and ratified by the Peruvian government about the de jure and de facto state of women's sexual and reproductive health; ensure that government officials are informed of the guarantees contained in the treaties and their potential to enhance sexual and reproductive rights.

Concerning the Formulation and Implementation of Sexual, Reproductive, and Family Planning Health Policies and Programs

- Guarantee and develop, in these policies, a women's rights perspective; affirm the supremacy of these rights over the demands of expediency, productivity, and profitability.
- Ensure that respect for the individual rights of women is the foremost concern in the formulation and implementation of reproductive health and family planning programs.
- Design and implement policies, programs, and health services with an intercultural perspective, and consider the manner in which different segments of the population would be affected by government actions.
- Allow client advocacy groups and human rights organizations to participate in the process of decision-making, the implementation of programs and health services, and the monitoring and evaluation of programs.
- Guarantee that information on family planning for women includes information on how women can legally protect themselves from domestic violence, which may result from their decisions on reproductive matters.
- Encourage male responsibility for the protection of the sexual and reproductive health of women.

Concerning Improvement in the Institutional Capacity of the Health Care Sector in the Protection of the Rights of Health Care Clients

- Provide human rights training to reproductive health care and family planning professionals and prepare those who work in rural communities for the linguistic and cultural differences of their clientele.
- In the selection, promotion, and retention of public health care